2016 Interim

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Effects of 2016 session will reach statewide

Staff Report
LRC Public Information

FRANKFORT -- The Kentucky General Assembly's 2016 regular session ended shortly before midnight on April 15, capping off a session in which lawmakers approved the state's next two-year budget and numerous other measures that will impact people throughout the state.

Most new laws – those that come from legislation that don't contain emergency clauses or different specified effective dates – will go into effect in mid-July.

A partial list of bills approved this year by the General Assembly include measures on the following topics:

Autism. Senate Bill 185 made permanent the Advisory Council on Autism Spectrum Disorders (established in 2013) and the state Office of Autism (created in 2014). The bodies will continue to ensure there aren't gaps in providing services to individuals with an autism spectrum disorder.

Booking photos. Under House Bill 132, websites or publications that use jail booking photographs for profit could face stiff court-ordered damages. The new law makes it illegal to post booking photos to a website or include them in a publication, then require payment to remove them from public view. Damages start at $100 a day for each separate offense, along with attorney fees.

Budget. House Bill 303 will guide $21 billion worth of state spending over the next two fiscal years. The two-year state budget plan is aimed at creating savings in many areas and using more revenue to shore up public pension systems. The budget will pour $1.28 billion into the state pension systems and make no cuts to K-12 education while authorizing the governor's

plan to cut most state agency funding by nine percent over the biennium. State spending will decrease by 4.5 percent for most public colleges and universities.

Chemical munitions disposal. House Bill 106 addresses the acute and chronic health effects of exposure to compounds used in chemical munitions. It requires that after the compounds in the weapons are treated to Energy and Environment standards, the byproducts be reclassified to ensure proper management and disposal.

Children locked in cars. Senate Bill 16 protects prospective rescuers from being sued for any property damage caused in pursuit of saving the life of a child left in a locked vehicle.

Child safety. House Bill 148 allows child daycare centers to receive prescriptions for EpiPen injectors to treat life-threatening allergic reactions while also giving parents more time to legally surrender their newborn under the state's

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State budget receives final passage

by Rebecca Hanchett
LRC Public Information

FRANKFORT—The Kentucky General Assembly has passed a $21 billion Executive Branch budget for the next two fiscal years that will pour $1.28 billion into the state pension systems and make no cuts to K-12 education while authorizing the governor's plan to cut most state agency funding by nine percent over the biennium.

Lesser cuts were authorized by the spending plan, found in House Bill 303, to Kentucky's constitutional offices including the Secretary of State's Office, Office of Attorney General, State Treasurer's Office, and the Auditor of Public Accounts along with a few other agencies including the Department of Agriculture and the Board of Elections. No cuts will be made to the Department of Veterans' Affairs under HB 303.

The House gave final passage to HB 303 by a vote of 98-1. House Appropriations and Revenue Committee Chairman Rick Rand, D-Bedford, said the measure is a "bipartisan, agreed-upon" Executive Branch spending plan and explained its provisions before the final vote.

Before the state Senate passed HB 303 by a 38-0 vote, Senate Appropriations and Revenue Committee Chairman Christian McDaniel talked about how the spending plan came about.

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New laws,
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safe harbor laws. The bill amended Kentucky's Safe Infants Act by giving parents up to 30 days to surrender their child at a state-approved safe place, instead of the previous standard of three days.

CPR in schools. Senate Bill 33 requires high school students be taught cardiopulmonary resuscitation, taught by an emergency medical professional. The life-saving measure would is to be taught as part of the students' physical education or health class, or as part of ROTC training.

Distilleries and craft brewers. Senate Bill 11 modernizes the state's 1930s-era alcohol regulations to aid new interest in bourbon, craft beer and small-farm wine products. Among other provisions, SB 11 allows malt beverages to be sold at festivals and drinking on quadricycles (better known as "party bikes"), and permits bed and breakfasts to sell liquor by the drink. It also raises limits for on-site sales at distilleries from three liters to nine liters.

Drunken driving. Senate Bill 56 will help increase felony convictions for DUI in Kentucky by allowing the courts to look at 10 years of prior convictions instead of five years. Kentucky law requires those convicted of a fourth offense DUI within five years to be charged with a felony. The clock for determining penalties for offenders is reset after five years under current law. Senate Bill 56 will extend that so-called "look-back" period to 10 years to allow more habitual offenders to face stiffer penalties like felony charges.

Election regulations. Senate Bill 169, which became law without the governor's signature, changed several election-centered statutes. Among them, it directed county clerks to redact voters' Social Security numbers before allowing the public to review voter rolls, and loosened restrictions on electioneering from 300feet to 11 feet around polling sites. The law also expanded means of voter identification to include any county, state or federally issued ID.

Felony expungement. Under House Bill 40, Kentuckians convicted of low-level felonies can ask the court to permanently seal—or expunge—their records. The new law allows those convicted of Class D felonies, or those who were charged but not formally indicted, to seek expungement after they have completed their sentence or probation. Sex crimes and crimes against children would not be included in the law.

Harassing telecommunications. House Bill 162 includes electronic communication, if it's done with intent to intimidate, harass, annoy or alarm another person, to current harassment statutes. Electronic harassment would be a Class B misdemeanor.

Rep. Susan Westrom, D-Lexington, and Rep. David Floyd, R-Bardstown, look over a bill before a vote in the House during the 2016 Regular Session of the Kentucky Generall Assembly.

Helping people with disabilities. Designed to allow Kentuckians with disabilities to set up savings accounts for disability-related expenses, Senate Bill 179 allows them to save money in an ABLE account for those expenses without it being taxed, generally. It would also not count against Medicaid and other federal means-based benefits.

Informed consent law. The first bill delivered to the governor's desk was Senate Bill 4, which requires an in-person or real-time video conference between a woman seeking an abortion and a health care provider at least 24 hours before the procedure.

Juvenile court transparency. Senate Bill 40 permits some family court judges to hold public hearings. The new law allows a handful of courts to hold the open hearings as a pilot project. Judges could volunteer their courts for the program, and close proceedings as necessary.

Local government. House Bill 189 makes it easier for local entities – like cities, police and fire departments – to share services. HB 189 sets procedures for amending interlocal agreements without the lengthy process of having to seek approval from the state Attorney General or the Department for Local Government.

Medicaid appeals. Senate Bill 20 gives medical providers access to independent appeals of denied Medicaid claims. Under the new law, the decision of the third-party reviewer could then be appealed to the Cabinet for Health and Family Services, where the decision of an administrative hearing tribunal would be the last step before judicial review.

Noah's Law. Senate Bill 193, also known as "Noah's Law" for a 9-year-old Pike County boy, extends health insurance coverage to include expensive amino acid-based elemental formula, needed by some children with gastric disorders and food allergies.

Off-duty conceal and carry. House Bill 314 allows current and retired peace officers to carry concealed firearms at any location where current, on-duty officers can carry guns.

Outdoor recreation. Zip lines and other outdoor recreation will be safer, as House Bill 38 became law. The new law directs the state to set standards for the use and operation of zip lines and canopy tours.

Pension oversight. House Bill 271 requires all state-administered retirement systems to report specific information on their members or members' beneficiaries to the state Public Pension Oversight Board each fiscal year. The information is to be used by the board to plan for future expenses and recommend changes to keep the retirement systems solvent.

Permanent Fund. House Bill 238 creates the "permanent fund" for public pensions funded in the Executive Branch budget bill, or HB 303. It also sets out specific requirements for public pension system reporting, including the requirement that an actuarial audit be performed on the state-administered retirement systems once every five years.

Petroleum tanks. House Bill 187 extends the period of the Petroleum Storage Tank

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Budget,

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"This is the result of a very intense conference committee that has met over the last several weeks," said McDaniel, R-Taylor Mill. "As we've talked throughout the course, the budget is the ultimate policy document of any agency. To that end, this reflects the policy, beliefs of both ends of this chamber."

Most new money in HB 303 will go for state pension in the Kentucky Employees Retirement System and the Kentucky Teachers' Retirement System. Additionally, HB 303 includes an over $100 million bond for workforce development requested by the Governor Matt Bevin and includes a multi-million dollar "permanent fund" requested by the governor, although not as large a fund as he had hoped—the budget sets aside $125 million for the fund while the governor requested $500 million. That money will come from a surplus in the Kentucky public employee health insurance trust fund.

Funding for K-12 education will not be cut under HB 303, which protects funding to schools and gives the Department of Education up to $20 million in additional funds over the biennium as a necessary governmental expense if there are not enough per-pupil SEEK funds available.

In the area of higher education, HB 303 authorizes lesser cuts of 4.5 percent over the biennium for state colleges and universities that faced the possibility of 9 percent cuts under the governor's original proposal. A performance-based funding formula for state universities is also found in the bill that will require 5 percent of state university base funding to be gauged on an institution's performance. Kentucky State University would be exempt from the performance-based model.

As for scholarships, HB 303 authorizes million of dollars in the second year of the biennium for up to two years' free tuition at Kentucky colleges and universities that offer associate degree programs. The budget originally included over $25 million over both years of the biennium for two-year free tuition scholarships created under the Kentucky Work Ready Scholarship Program established by HB 626, but that bill was vetoed by the governor, who also removed funding for the program in fiscal year 2017.

Lawmakers reached the compromise that led to passage of HB 303 during the Governor's veto recess. The Governor vetoed six bills during the recess including the session's revenue bill, or HB 423, and parts of the Judicial Branch budget found in HB 306. The Judicial Branch budget veto removed two mandated expenditures from the over $800 billion budget bill that total around $25.5 million, including $23.5 million in fund transfers to the state's General Fund.

The Governor explained the veto of the fund transfers by saying the transfers "go beyond the limit of what the Commonwealth should require from the Judicial Branch," which was already slated to receive cuts of nine percent over the next biennium with the final passage of HB 306. Rand said HB 303 will restore funding for the Judicial Branch to the level requested by Kentucky Chief Justice John D. Minton.

The veto of HB 423 led lawmakers to move most of the tax credits and other contents of that revenue bill, which is used to balance the state budget, into HB 80, a measure that originally dealt with open records.

HB 80 received final passage in the House by a vote of 88-10.

Sen. Morgan McGarvey, D-Louisville, and Sen. Julie Raque Adams, R-Louisville, discuss legislation before a committee vote during the 2016 Regular Session of the Kentucky General Assembly.

Senate Majority Floor Leader Damon Thayer, R-Georgetown, speaks during conference committee deliberations on the state budget.

State legislative panel votes on issues to be studied this interim

by Jim Hannah
LRC Public Information

A bipartisan committee of state legislators empowered to review the operations of state agencies and programs met on May 12 to elect new co-chairs and vote on topics to study during the remainder of the year.

Sen. Danny Carroll, R-Paducah, and Rep. Terry Mills, D-Lebanon, were elected as co-chairs of the 16-member group, known as the Program Review & Investigations Committee.

Their elections were followed by a selection of topics to be studied during the interim, the period of time between sessions of the legislature.

"The best, fairest way, that I could come up with to do this … is allow each caucus to choose a topic rather than getting into a controversy, discussion, hard feelings," said Carroll. "I think that is the fairest way."

The Senate Republicans asked that the defunct Kentucky Health Cooperative be studied while the Senate Democrats asked for a study of county jails that hold state prisoners.

House Democrats asked for the committee to analyze the practices, procedures, administrative regulations and state laws related to foster care and adoption in accordance with House Resolution 282. House Republicans asked for an examination of possible abuses of the farmland tax break.

Mills said the committee reduced the number of issues to study this year by two in an attempt to stay focused on relevant topics. Reports are expected to be published on each of the four issues by the end of the year. That way legislation to address any problems uncovered could be introduced during the 2017 General Assembly.

Carroll said the committee will remain flexible by looking at additional issues as they arise.

"Just to make it clear, there will be other topics that we will address," Carroll said. "We will hear other testimony on other topics that we will choose from month to month. That will depend when reports are ready to be presented and how much time that we have. We do plan to cover a wide array of topics that are pertinent in this day and time during the interim."

2016 P3 bill goes to governor's desk

by Rebecca Hanchett
LRC Public Information

FRANKFORT—A bill that will allow government and private entities to enter into different public-private partnerships to fund Kentucky's major infrastructure needs has been signed into law.

House Bill 309, sponsored by Rep. Leslie Combs, D-Pikeville, and House Majority Caucus Chair Sannie Overly, D-Paris, received final passage by an 86-8 vote and was signed into law by Governor Matt Bevin on April 8. The bill will provide a framework for the use of public-private partnerships, or P3s, as an alternative financing method for major public projects, including transportation projects.

The bill will specifically prohibit tolls for "any project involving the federal interstate highway system that connects the Commonwealth with the State of Ohio," including the proposed $2.6 billion Brent Spence Bridge project in Northern Kentucky.

When asked by Rep. Arnold Simpson, D-Covington, if HB 309 as amended by the Senate by a vote of 29-9, would authorize tolls on projects in Northern Kentucky, Combs answered definitively.

"I assure you there were no changes made to actually any roadways…" said Combs. "So you rest assured, everything is safe. It will not be tolled."

HB 309 will provide a framework for the use of public-private partnerships, or P3s, as an alternative financing method.

Combs said that the Senate changes to the bill, to which the House agreed, actually extended the prohibition of tolls in HB 309 to any highway including interstates connecting Kentucky to Ohio, "including but not limited to a bypass of a major metropolitan area."

HB 309 was handled in the Senate by Sen. Max Wise, R-Campbellsville, who sponsored P3 legislation of his own this session. That bill was SB 132.

HB 309 in its final form also clarifies that bidding of unsolicited P3 proposals received by state and local government agencies must be open and competitive, clarifies language regarding use of P3s by colleges and universities, and allows the state Finance Cabinet to contract with an outside consultant to help with review of local P3 projects, along with other provisions.

P3 legislation did pass the Kentucky General Assembly in 2014 but was vetoed by former Gov. Steve Beshear. Provisions for non-transportation related public-private partnerships in existing law and the bill's prohibition against entering into P3s with the state of Ohio without legislative scrutiny were given by Beshear as reasons for his veto.

Rep. Leslie Combs, D-Pikeville, and House Speaker Greg Stumbo, D-Prestonsburg, speak in the House during the final days of the 2016 Regular Session.

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Laws,

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Environmental Assistance Fund to aid in the safe removal of old underground gas and oil tanks. The bill moved back the end date to participate in the program to 2021, from 2016, and the date to perform corrective actions from 2019 to 2024. It also extended a program for small operators by five years, to 2021.

Public private partnerships. House Bill 309, which allows government and private entities to enter into public-private partnerships – known as P3s – to fund Kentucky's major infrastructure needs. The new law provides a framework for P3s as an alternative financing method for major public projects, including transportation projects.

Sexual assault investigations. Aimed at eliminating a backlog of sexual assault examination kits, Senate Bill 63 establishes new policies and procedures for handling evidence. SB 63 requires police to pick up sexual assault kits from hospitals within five days' notice, submit evidence to the state crime lab within 30 days, prohibit the destruction of any kits and notify victims of the progress and results of the tests. The new law also requires the average completion date for kits tested not to exceed 90 days by July 2018 and 60 days by July 2020.

Stopping dog fights. House Bill 428 makes it a felony to possess, breed, sell or otherwise handle dogs for the purpose of dog fighting. The bill also defines dog fighting, and allows people who intentionally own, possess, breed, train, sell or transfer dogs for dog fighting to be charged with first-degree cruelty to animals, a Class D felony. In effect, it makes it easier to prosecute perpetrators.

Vulnerable victims. Senate Bill 60 creates a new section of KRS Chapter 501, defining an "offense against a vulnerable victim" and creating a mechanism for charging someone with the commission of an offense against a victim who is under the age of 14, has an intellectual disability, or is physically helpless or mentally incapacitated.

Water resource protection. House Bill 529 created the Kentucky Water Resources Board to research current water resources in the Commonwealth, identify new available resources and examine efficiencies, especially to support farming. The new 11-member board includes officials from state interior and agriculture departments along with six gubernatorial appointees.

Committee Meetings

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INTERIM JOINT COMMITTEE ON AGRICULTURE

Subcommittee on Rural Issues
Minutes of the 1st Meeting
of the 2015 Interim
November 4, 2015

Call to Order and Roll Call

The 1st meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture was held on Wednesday, November 4, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Mike Denham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Mike Denham, Co-Chair; Senators C.B. Embry Jr., Chris Girdler, and Paul Hornback; Representatives David Hale, Richard Heath, Kim King, Tom McKee, Suzanne Miles, Terry Mills, Steven Rudy, Dean Schamore, and John Short.

Guests: Steve Coleman, Chair, Kentucky Farm Bureau Water Management Working Group, Dr. Janet Kurzynske, Extension Professor, University of Kentucky, Mandy Lambert, Commissioner, Department for Business Development, Kentucky Cabinet for Economic Development; and John Bevington, Deputy Commissioner, Department for Business Development, Kentucky Cabinet for Economic Development.

LRC Staff: Tanya Monsanto, Kelly Ludwig, and Susan Spoonamore.

Discussion on Kentucky's Water Resources

Mr. Steve Coleman, Chair, Kentucky Farm Bureau Water Management Working Group, discussed Kentucky's water resources. The Water Management Working Group is a 20 member task force assembled by the Kentucky Farm Bureau. The Group is charged to develop recommendations that will enhance the quality and quantity of water resources accessible for agricultural production in Kentucky and help alleviate demand pressure on municipal water supplies. The mission of the Water Management Working Group is to research the emerging issue of inadequate water supplies available for agricultural production, examine potential actions to solve deficiencies, and make recommendations for bringing new and reliable water sources to key areas in Kentucky that will benefit both agriculture and municipal water customers. Only two percent of Kentucky's water resources are utilized for agricultural irrigation and four and seven tenths percent is used for livestock watering. Mr. Coleman stated Kentucky is one of a few states that does not have a groundwater monitoring system to track changes in the water table. The Water Management Working Group is working to create a better projection of future agricultural water needs, including a review of the current Drought Mitigation Plan. The Water Management Working Group is working to develop agricultural best management practices that improve water efficiency, promote soil health, and create additional water resources while utilizing modern technologies to increase efficiencies.

In response to Representative Denham, Mr. Coleman stated that current lakes and structures are being evaluated for potential expansion. Mr. Coleman stated funding is an issue when discussing new potential projects and land acquisition is difficult in order to build a new lake. Acquiring a permit from the Army Corps of Engineers is a long process.

In response to Senator Hornback, Mr. Coleman stated Kentucky is well positioned and the Water Management Working Group is tracking the passage of the Water of the United States which may influence some of the Group's recommendations.

In response to Representative Denham, Mr. Coleman stated McKee is one lake built after the Clean Water Act of 1972.

Overview of the National Rural Child Poverty Nutrition Center

Dr. Janet Kurzynske, Extension Professor, University of Kentucky, gave an overview of the National Rural Child Poverty Nutrition Center. Dr. Kurzynske stated the Rural Child Poverty Nutrition Center focuses on families with children who live in 324 persistently poor rural counties in 15 states. The Rural Child Poverty Nutrition Center is a national center established at the University of Kentucky. Dr. Kurzynske stated the goal is to help families increase participation in the United States Department of Agriculture's Food and Nutrition Service Child Nutrition programs and other nutrition assistance programs. Dr. Kurzynske explained funded projects propose creative strategies to increase coordination among Food and Nutrition Service Child Nutrition programs and other nutrition assistance programs, including the School Breakfast Program, National School Lunch Program, Summer Food Service Program, Child and Adult Care Food Program, among others.

Funds are used to coordinate child nutrition programs at the county level so officials can evaluate the core problems as to why programs are not being utilized. Lack of information and awareness of available nutrition programs play a role. In rural counties, some have difficulty accessing programs and a shortage of rural grocery stores that carry products that qualify for Women, Infants, and Children (WIC) and other programs are also factors to be considered. In schools, especially middle schools, children often do not like to use free and reduced lunch programs because a stigma is attached to use of the programs and students do not want to be viewed by their peers as living in poverty. This year, 50 applications were submitted to the National Rural Child Poverty Nutrition Center, of which, six applications were from Kentucky. It is expected that an announcement will be made in the next month as to which applications will be funded.

In response to Representative Denham, Dr. Kurzynske explained there are two levels of support: free and reduced. If 51 percent of children in a school are at poverty then the school can apply for funding to be a universally free lunch program. The problem with this approach is that most school lunchrooms are self-sustaining so schools chose not use the universal free lunch program because of the United States Department of Agriculture's reimbursements. It is not economically feasible. Dr. Kurzynske stated, in her opinion, the three things she would recommend to reduce persistent poverty in Kentucky would be jobs, jobs, and jobs. Dr. Kurzynske explained there are two types of poverty: generational and situational.

In response to Senator Humphries, Dr. Kurzynske stated these are community driven grants because each community has its own set of issues. The Food and Nutrition Service has its own set of criteria for designating which counties qualify for the programs. Staff will follow up to obtain the set of criteria and the methods used to designate 15 states and 324 counties as being eligible for the program.

Update on Kentucky Cabinet for Economic Development Programs

Mandy Lambert, Commissioner, Department for Business Development, Kentucky Cabinet for Economic Development and John Bevington, Deputy Commissioner, Department for Business Development, Kentucky Cabinet for Economic Development gave an update on Kentucky Cabinet for Economic Development Programs. Ms. Lambert stated Kentucky's jobless rate in September 2015 was 5 percent, the lowest since 2001 and that there were more than 350 new location and expansion projects in 2014. About 51 percent of economic development projects and 53 percent of newly announced capital investments will be locating in rural Kentucky. Rural counties benefited from 64 percent of manufacturing job growth over the past year.

Mr. Bevington explained the Build-Ready program accelerates the site selection process for companies. Six sites have been certified and six more are in process of being certified. Site criteria include: building pad ready, clear of environmental issues with studies complete, infrastructure extension plans in place, and design and concept available. Mr. Bevington stated 32 nations have invested in Kentucky during 2009-2014. 450 internationally owned facilities have located in the Commonwealth, employing 87,000 people. The Kentucky Federation for Advanced Manufacturing Education (KY FAME) is a one-year company-sponsored training partnership that puts high school students, older students and military transitioning to civilian life on a fast track to jobs in manufacturing trades. KY FAME has 125 company members, 75 companies currently sponsoring students and 147 current students. KY FAME has 65 graduates thus far.

In response to Representative Denham, Ms. Lambert and Mr. Bevington said the Cabinet is not aware of national statistics as to where Kentucky sits in terms of available skilled workforce and that communities are not penalized for not being work ready.

In response to Representative Heath, Ms. Lambert stated she did not know the status of the population shift in Kentucky but that she would find out and follow up.

In response to Senator Humphries, Mr. Bevington said there are more resources available to assist rural counties and Kentucky Cabinet for Economic Development staff can help customize incentives for rural counties.

In response to Representative Kim King, Ms. Lambert and Mr. Bevington explained programs such as KY FAME help to educate what job opportunities exist.

In response to Senator Embry, Ms. Lambert stated she was not sure why Jefferson and Fayette counties were not yet work ready certified but felt that it was just a matter of the counties having not yet gone through the process.

There being no further business, the meeting was adjourned.

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

Minutes of the 6th Meeting of the 2015 Interim

December 16, 2015

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, December 16, 2015, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Albert Robinson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Will Coursey, Co-Chair; Senators Perry B. Clark, C.B. Embry Jr., Carroll Gibson, Ernie Harris, Gerald A. Neal, Dennis Parrett, Dan "Malano" Seum, and Whitney Westerfield; Representatives Robert Benvenuti III, Regina Bunch, Tom Burch, Larry Clark, Leslie Combs, Tim Couch, Ron Crimm, Myron Dossett, Jim Glenn, David Hale, Kenny Imes, Donna Mayfield, David Meade, Terry Mills, Rick G. Nelson, Tom Riner, Dean Schamore, Rita Smart, and Russell Webber.

Guests: Greg Stumbo, Speaker of the House of Representatives; Rodney Brewer, Commissioner, and Angela Parker, Strategic Planning Commander, Kentucky State Police.

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

Minutes

A motion was made and seconded to approve the November 12, 2015, meeting minutes. The minutes were approved.

State Police Safety Measures

Commissioner Brewer provided the committee with a PowerPoint presentation on Kentucky State Police Safety Proposals and a report on recommendations for improving trooper safety, both of which are a part of this official record. Commissioner Brewer stated that Speaker Greg Stumbo requested that a study be conducted regarding safety measures after the tragic death of Kentucky State Police (KSP) Trooper Cameron Ponder, who was shot and killed in a vehicle pursuit on September 13, 2015.

One suggestion presented to the KSP was to modify the existing fleet of patrol vehicles with bullet resistant windshields using either a window laminate product or installing aftermarket ballistic glass. After being notified of the suggestion of ballistic windshields or bullet resistant windshields, KSP sought to identify any law enforcement agencies in the United States who has had experience with these products. KSP found no state police or highway patrol agencies had either on any of their patrol cars. The International Association of Chiefs of Police was also unable to identify any municipal or small agencies using these. There is no window glass product on the market that actually is bullet proof. Although many products may be extremely resistant, enough rounds will break the glass.

Commissioner Brewer stated that an abundance of caution is necessary when considering any modification to a pursuit vehicle that involves the safe performance of the vehicle. KSP incurs an average of 188 vehicle crashes per year and participates in an average of 114 pursuits. In a collision, the window glass is engineered to shatter or not shatter in ways that protect the occupants from cut injuries and to permit the frame of the vehicle to disperse collision energy around the passenger cabin. Changing the window glass changes behavior of the glass in the event of a crash. Adding ballistic laminate changes the behavior to the glass. The laminated glass could be expected to keep the window glass intact and potentially move through the passenger compartment similar to an oversized razor blade and become extremely dangerous to any occupants. In addition to safety concerns in a crash, the laminate must be durable enough to withstand the thousands of cycles of the window opening and closing without rub marks and scratches obscuring visibility over the life of the windows.

Bullet resistant windshields are substantially heavier and thicker than standard windshield glass. Because the bullet resistant windshield will not break the way a standard equipment windshield would, the behavior of the window frame could be altered in a crash. Other systems could be affected by the changed behavior of the glass as well. These changes could have an impact on whether KSP pursuit vehicles would continue to meet Federal Motor Vehicle Safety Standards. Chrysler's police vehicle engineering team is reviewing KSP's inquiry and preparing a response to answer all of the questions and concerns. Every component of the Dodge Charger police pursuit car is engineered and tested to work together for maximum safety and performance. The manufacturer's input should be carefully weighed in the ultimate decision whether to modify the majority of the KSP patrol fleet with bullet resistant windshields.

Commissioner Brewer discussed the need for a firing range for sworn troopers and officers. He stated that every officer is required to demonstrate proficiency and must re-qualify quarterly with their firearms. The ability to apply that knowledge and use those skills appropriately is critical. The greatest hindrance to KSP firearms instruction is the lack of a firing range. The agency has never owned or controlled its own firing range since its creation in 1948. KSP borrows time for cadet training and mandatory officer qualifications on indoor and outdoor ranges. A dedicated indoor firing range can be set up and used to affect the best possible conditions to ensure officer skills meet or exceed standards in the use of firearms. Phase 2 of the KSP Academy construction project includes the addition of an indoor firing range on the property in Frankfort. The estimated cost of construction is $2,016,652.

Commissioner Brewer discussed the need for a replacement program for marked cruisers. He stated that KSP's vehicle fleet includes 211 marked cruisers with over 100,000 miles and 85 marked cruisers with over 150,000 miles on them. The maintenance and repairs on high mileage vehicles cost the agency over $180,000 each month. Most state police and highway patrol agencies plan to retire patrol vehicles at 100,000 miles and purchase new vehicles to meet that goal. KSP prefers the same standard but has been unable to achieve that goal due to budget restrictions. KSP has not received capital outlay funding for cruisers since 2003 and has reduced annual vehicle purchases to remain within normal appropriations. KSP should purchase 250 new vehicles each year to prevent the fleet from aging beyond the expected useful life of each car. The agency has requested $7,145,000 in FY17 for purchase of fleet vehicles.

Commissioner Brewer discussed the option of Glock mounted flashlights to officer's handguns. He stated that a weapon mounted light is available and gives troopers many advantages. The light mounts to the Glock handgun in a position that allows the trooper to operate the light with his thumb to keep the light on the threat and leaves the other hand free as the trooper is moving through an area. In a shooting incident, the trooper can fire the weapon with both hands, as trained, which increases accuracy. Providing this simple piece of equipment gives troopers a tactical advantage in a high-risk situation. Purchase of the Glock mounted flashlight and holster for all KSP officers will cost approximately $179,000.

Commissioner Brewer finished the report with the recommendation of a pay advancement plan. The starting salary for KSP troopers was last increased in 2007. Due to the lack of salary growth troopers are retiring in their first year of eligibility. This causes the agency to not only lose much needed experience but to also incur the cost of training new cadets to replace the early retirements. KSP is requesting $7.84 million budget increase to fund a $4,000 raise that would become effective July 1, 2016. KSP is also requesting an additional $386,000 in FY18. This funding would allow a salary increase of five percent to all Chapter 16 sworn personnel who reach 10, 15, or 20 years of service. This would be awarded on or after August 1, 2017. The KSP proposes to establish the 10, 15, and 20 year pay advancement plan permanently as a statutory addition to KRS Chapter 16.

In response to a question and comments from Chairman Robinson, Commissioner Brewer stated that KSP has spoken to officers in the field regarding the requests to study various safety measures, and they are all happy that safety measures are being studied for their future safety. They also have an overwhelming desire for a raise.

In response to a question from Representative Burch, Commissioner Brewer stated that KSP did historical research on KSP related deaths since 1948. There have been 30 deaths, and 43 percent of them were from gunfire. Only Trooper Ponder's death occurred with gunfire through a windshield. Nationwide data shows that vehicle-related crashes have outpaced gun related deaths among troopers.

In response to a question from Representative Glenn, Commissioner Brewer stated that there are four hundred to five hundred marked cruisers.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Seventh Meeting of the 2015 Interim

December 16, 2015

Call to Order and Roll Call

The seventh meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, December 16, 2015, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 1:05 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, Danny Carroll, Julian M. Carroll, Denise Harper Angel, and Jimmy Higdon; Representatives Robert Benvenuti III, George Brown, Jr., Bob M. DeWeese, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, David Watkins, Russell Webber, and Addia Wuchner.

Guests: Vickie Yates Brown Glisson, Secretary, Cabinet for Health and Family Services; Kevin T. Kavanagh, MD, MS, Board Chairman, Health Watch USA; Ramona Johnson, Bridgehaven Mental Health Services; Whitney Jones, M.D. and Founder, Kentucky Cancer Foundation and Colon Cancer Prevention Project; Kendra Lyman; Nick Mulnar; Dee Robinson, Activist; William Myers, JD, MBA, Executive Director of CASA of the River Region; Patti Mayhew, CASA volunteer, CASA of the Heartland; The Honorable Retired Judge Todd Walton; Louis Kelly, Kentucky Board of Physical Therapy; Diona Mullins, Office of Health Policy, Cabinet for Health and Family Services; Cheryl Lalonde, Kentucky Board of Pharmacy; and Donna Brown, Kentucky Association of Chiropractors.

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

Minutes

A motion to approve the November 18, 2015 minutes was made by Senator Alvarado, seconded by Representative Jenkins, and approved by voice vote.

Introduction and Welcome

Vickie Yates Brown Glisson, Secretary, Cabinet for Health and Family Services, stated that she is looking forward to working with the General Assembly.

Consideration of Referred Administrative Regulations

The following referred administrative regulations were up for consideration: **201 KAR 2:220** - establishes minimum requirements for the development and maintenance of collaborative care agreements between pharmacist and practitioner; **201 KAR 21:015** - establishes the minimum standards of professional and ethical conduct and practice that a chiropractic licensee shall maintain; **201 KAR 22:020** - regulation establishes the criteria for eligibility, methods, and procedures of qualifying for a credential to practice physical therapy in Kentucky; **201 KAR 22:040** - establishes the requirements and procedures for the renewal and reinstatement of credentials by the Board of Physical Therapy; **201 KAR 22:070** - establishes the requirements a foreign-educated physical therapist shall satisfy to become credentialed in the state of Kentucky; **201 KAR 25:011** - establishes the procedures to be followed in obtaining an application, the fees to be charged, and the procedures relating to the examination and issuance of a license to practice podiatry in this state; **201 KAR 25:021** - establishes an annual license renewal fee and a delinquent penalty fee for all licensed podiatrists; **201 KAR 25:031** - establishes continuing education related to the use of the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER); **201 KAR 26:121** - establishes the required scope of practice for licensed psychologists who hold the health service provider designation, licensed psychologists, certified psychologists, certified psychologists with autonomous functioning, licensed psychological associates, and licensed psychological practitioners and provides guidance about scope of practice for license holders of the board who also hold mental health credentials from another regulatory board; **201 KAR 26:175** - establishes the continuing education requirements for renewal of a license by the Kentucky Board of Examiners of Psychology; **201 KAR 26:200** - defines terms as they relate to licensed psychologists; **201 KAR 32:025** - establishes the requirements for marriage and family therapist associates; **201 KAR 32:035** - establishes the supervision requirements for marriage and family therapy associates and their board-approved supervisors; **201 KAR 32:045** - establishes the process for taking the written examination by the Board of Licensure for Marriage and Family Therapists; **201 KAR 32:060** - delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses for a marriage and family therapist and associate; **900 KAR 6:055** - establishes the forms necessary for the orderly administration of the Certificate of Need Program; **900 KAR 6:075** - establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need Program; **900 KAR 6:090** - establishes the requirements for filing, hearing, and show cause hearings necessary for the orderly administration of the Certificate of Need Program; and **910 KAR 1:240** - establishes the certification process for assisted-living communities. A motion to approve all the administrative regulations was made by Senator Carroll, seconded by Representative Jenkins, and approved by voice vote.

Hospital Acquired Infections

Kevin Kavanagh, M.D. stated that antibiotic resistant bacteria is reaching epidemic level. The warnings were made as early as 1992, but were largely ignored. MRSA has reached epidemic proportions in the United States. Approximately 44 percent of staph cultures are MRSA. Kentucky resides in a region where 62 percent of staph cultures are resistant to methicillin and has the second highest rate of MRSA bacteremia in the United States. Kentucky's rate is twice as high as 14 other states in the nation. In England, the MRSA epidemic was on a larger scale but was still able to be reversed using interventions that included screening and isolation. Other organisms like the virtually untreatable bacteria CRE are also emerging. Europe knew about the CRE epidemic two years before the United States. The United States does not have an adequate reporting system. Approximately 4,500 cases of CRE were reported in the United States. Overutilization of antibiotics has caused Kentucky to have the highest rate of CRE in the United States. No single facility can solve this problem or even prevent infections within a facility. The state health department and public health authorities are key in coordinating education and ensuring accurate reporting. All facilities are at risk of an outbreak. There have between 1.6 million to 3.8 million healthcare associated infections in nursing homes. Kentucky was one of the first states to enact a coordinated healthcare system approach to the problem and require reporting of a wide range of multi-resistant drug organisms.

Mental Health

Ramona Johnson, Bridgehaven Mental Health Services, stated that Bridgehaven has served adults with severe mental illness since 1958. The facility offers rehabilitation, recovery, and community integration for adults with severe and persistent mental illness in a community-based, non-residential program. Services include individualized, person-centered planning, group and individual therapy, dual diagnosis programs, art therapy, pet therapy, integrated health clinic, computer skills, independent living skills, illness management and recovery, peer support, Peer Empowerment Path, cognitive enhancement therapy, a welcoming support system encouraging growth and independence, and a mental health home where people who receive services call themselves members. Bridgehaven has achieved an 85 percent reduction in psychiatric hospitalization saving almost $2 million a year in treatment costs, 93 percent in recovery goals, 71 percent improvement in quality of life, 75 percent of members that live independently after leaving the facility, 100 percent reduction in incarceration, and 71 percent of formerly homeless members remain in housing for at least six months.

Senator Adams stated that there is no stigma for patients at Bridgehaven.

In response to a question by Representation Marzian, Ms. Johnson stated that approximately 60 to 75 people have been referred to the facility because of Medicaid expansion benefits.

In response to questions by Representative Jenkins, Ms. Johnson stated that there has been a reduction in mental and behavioral health issues because patients are being closely monitored.

Representative Burch stated that there is a need to properly deal with mental health issues.

Colon Cancer Advisory Committee Update

Whitney Jones, M.D. and Founder, Kentucky Cancer Foundation and Colon Cancer Prevention Project, stated that in 2001, Kentucky had the highest colorectal cancer (CRC) incidence rate and the second to the lowest CRC screening rate in the United States. The General Assembly provides funding for the Kentucky Cancer Program and the Kentucky Cancer Registry and the Kentucky Colon Cancer Advisory Committee. Preventative screenings lowered the CRC incidences. In 2022, Kentucky initiated a statewide effort to reduce the burden of CRC in the Commonwealth that included more than 60 separate public and private agencies and organizations working together in a truly coordinated and collaborative way. Since 2002, the CRC screening rate in Kentucky increased from just over 34.7 percent of the eligible population to 65.7 percent. There was been a 25 percent reduction in CRC incidence and 30 percent decrease in CRC mortality. No other state in the United States has experienced such a dramatic change in CRC screening in such a short period of time. This could not have happened without the support of the Kentucky General Assembly. The downside is that one-third of eligible Kentuckians have never been screened for CRC because of fewer resources and less education. To reach this vulnerable population, new innovative and culturally sensitive approaches will need to be implemented. No other state has private partnerships that help cover screenings for underinsured individuals. A couple of barriers for someone being able to get a screening are deductibles and transportation.

Kendra Lyman and Nick Mulnar stressed that both of them received early screening and were able to prevent colon cancer.

Animal and Human Rights

Dee Robinson, Activist, stated that Animal/Human Abuse Syndrome or The Link is a powerful connection between interpersonal violence and domestic pet cruelty. In 2016, the FBI announced that animal abusers in federal cases will be considered Class A felons that include arsonists and murders. It is time for Kentucky to enact tougher animal abuse legislation. Animal crime is often the most visible sign that children, the elderly, or partners may also be in danger of unmitigated violence or extreme neglect. Batterers who commit pet abuse have higher rates of sexual violence, marital rape, emotional violence, and stalking than non-abusers. In addition, pet abusing batterers use more controlling behaviors like male privilege, isolation, blaming, intimidation, threats, and economic abuse. Until now, the focus of proposed animal abuse legislation in Kentucky has been for the sole purpose of protecting animals, however people should be a priority in our society. Previously filed domestic pet protection bills failed because there was not a strong enough case linking the welfare of people to the welfare of pets.

One out of every three women in Kentucky will be victims of domestic violence, and 85 percent of all women who escape physical abuse in their homes and seek shelter report that there was ongoing animal abuse before they left. Recent studies find nearly 70 percent of victims either stay to protect pets from an abuser or witness their pet being hurt before the abuse turns on them. Seventy percent of pet abusers have criminal records in all areas, not just domestic abuse. Animal abusers are five times more likely to commit violent crimes against people.

KRS 525.135, the torture bill, should be changed to make four first time offenses Class D felonies: (1) Gross and deliberate neglect including deprivation of food and water, lack of shelter that protects the animal from extreme temperatures and deprivation of needed medical attention that causes trauma associated with death or near death to a cat or dog; (2) Extreme torture or deliberate physical abuse that results in the death or near death of a cat or dog; (3) Sexual assault of an animal; and (4) Dog fighting which includes owning, possessing, keeping, breeding, training, selling, or stealing or otherwise transferring a dog for the purpose of that animal or its offspring being used for bait or fighting for please or profit and attending and watching or participating in a dog fight. Also needed is cross-training and cross-reporting among law enforcement officers, humane investigators, veterinarians, health professionals, domestic violence advocates and child protection workers; training and continuing education about The Link for judges and prosecutors; inclusion of animal-focused violence in standard assessments and intake forms for child protective services, mental health and domestic violence workers; community partnerships to respond to family violence and educate the public about taking all acts of violence seriously; and an animal abusers registry for convicted felons of domestic pet abuse. Animal abusers put everyone at risk, and the law needs to be changed to protect all Kentuckians.

CASA – Court Appointed Special Advocates

William Myers, JD, MBA, Executive Director of CASA of the River Region, stated that currently CASA is active in 43 Kentucky counties. In 2014, 932 CASA volunteers worked on active cases. To date, 3,577 children have been served. According to total substantiated abuse and neglect number per the Department for Community Based Services (DCBS) and the Administrative Office of the Courts 2014 data, over 17,000 children went unserved by CASA. Over 21,000 child victims of substantiated abuse and neglect are involved in the Family Court System. Children are served by 19 independent 501c(3) programs funded by private donors, federal, state, and private foundation grants. PCAK reported that between 2010 and 2014, there was an increase of 22.9 percent in the number of reports that met criteria for investigation.

CASA volunteers are dedicated community members that are required to take 30 hours of initial training plus 12 hours of continuing education. A CASA volunteer has one case to focus completely on the children involved. The CASA volunteer visits the child, ensure proper care, and provide a report to the judge. Programs and CASA volunteers adhere to Quality Assurance Standards by the National CASA Association and supported by the Kentucky CASA network. CASA is regulated by the Kentucky Revised Statutes.

The Honorable Todd Walton, retired Family Court Judge, stated that CASA programs have been available to courts presiding over child dependency, neglect, and abuse cases since July 1990. In November 1995, a CASA program was established for Bracken, Fleming, and Mason Counties that provides a district court judge trained community volunteers to advocate on behalf of dependent, neglected, and abused children. The CASA volunteer speaks on behalf of the child who is too young, too afraid, too injured, too sick, or too helpless to speak for themselves. The CASA volunteer is not a child's lawyer or social worker but a direct link to the judge. The law empowers and requires CASA volunteers to gain access to all information pertaining to the child and make recommendations to the judge that are in the best interest of the child. Child dependency, neglect, and abuse cases are complicated, difficult, numerous, time-consuming, resource consuming, and perhaps the very most important cases a district judge or family court judge will decide. The efforts of the CASA volunteer on behalf of the child enables the judge to make a decision based upon all the available facts. A CASA program assists the court in an orderly and positive way in making timely decisions. Consequently, the child is protected, family preservation or family reunification efforts can proceed, or alternatively, the termination of parental rights and adoption. The value of a CASA program is immeasurable.

Patti Mayhew, CASA volunteer, CASA of the Heartland, stated that in 2014, CASA of the Heartland in Hardin County worked with only 119 of the 481 dependency, abused, and neglected children in Hardin County's court system. With the number and complexity of cases, the Cabinet for Health and Family Services (CHFS) and the social workers are often overwhelmed by the need in communities. In addition to being working with Family Court judges, CASA volunteers complement and collaborate with the CHFS and social workers to help provide an additional layer of support for children and families. CASA volunteers share knowledge of and connect children and families with targeted services and opportunities that can help change generational cycles of child abuse and neglect. A CASA volunteer can make a huge impact on the future of our most at-risk children. There is a need to increase capacity in current programs and build more programs in Kentucky to serve more children at an earlier age. The children are crying for love, care, and support, and it is our obligation to listen.

Representative Wuchner stated that CASA is not funded in the state budget. Consistency in a child's life is important, because no child should not have hope.

Representative Moore stated that CASA provides children support and advocate while in the custody of the cabinet and beyond.

In response to questions by Representative Burch, Judge Walton stated that the qualifications for becoming a CASA volunteer are 21 years of age or older, be willing to complete necessary background checks, provide references and participate in an interview. complete a minimum of 30 hours of pre-service training, be available for court appearances, with advance notice, and be willing to commit to the CASA program until your first case is closed. It is not always in the best interest of the child to open hearings to the public, especially sexual and physical abuse cases.

In response to questions by Representative Meeks, Mr. Meyers stated that in addition to the requirements already stated, a CASA volunteer is sworn in by a judge. The number to call about specific CASA information in Jefferson County is 502-595-4911.

In response to a question by Senator Danny Carroll, Mr. Meyers stated that regional child advocate centers are located across the Commonwealth. Judge Walton stated that child advocate centers are different from CASA and causes some confusion between the two.

Adjournment

There being no further business, the meeting was adjourned at 2:45 p.m.

LEGISLATIVE RESEARCH COMMISSION

Minutes of the 552nd Meeting

December 17, 2015

Call to Order and Roll Call

The 552nd meeting of the Legislative Research Commission was held on Thursday, December 17, 2015, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, 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, Gerald A. Neal, Dan "Malano" Seum, and Damon Thayer; Representatives Rocky Adkins, Johnny Bell, Stan Lee, Sannie Overly, and Jody Richards.

Guests: Sen. Carroll introduced Reverend Steve Weaver, a pastor at Farmdale Baptist Church, in Lawrenceburg, who is part of a new non-partisan ministry called the Capitol Commission.

LRC Staff:

David Byerman and Christy Glass.

There being a quorum present, Representative Greg Stumbo called for a motion to approve the minutes of October 7, 2015, meeting; accept and refer as indicated items A. through G. under Staff and Committee reports; refer prefiled bills as indicated and approve items B. through E. under New Business; accept and refer as indicated items 1. through 49. under Communications; and accept and approve as indicated items 1. through 3. under Other Business. A motion was made by Representative Richards and seconded by Representative Adkins. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

The minutes of the October 7, 2015, meeting were approved.

Staff and Committee Reports

Information requests for October 2015 through November 2015.

Committee Activity Reports for October 2015 through November 2015.

Report of the Administrative Regulation Review Subcommittee meetings on October 13 and November 10, 2015.

Committee review of the administrative regulations by the Interim Joint Committee on Education during its meeting of October 12, 2015.

Committee review of the administrative regulations by the Interim Joint Committee on Labor and Industry during its meeting of October 15, 2015.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare during its meetings of October 21 and November 18, 2015.

From the Program Review and Investigations Committee: 2015 Update on the Child Fatality and Near Fatality External Review Panel.

New Business

Referral of prefiled bills to the following committees: **BR 277** (relating to temporary removal hearings) to **Agriculture**; **BR 73** (relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency), **BR 118** (relating to persons with developmental or intellectual disabilities), **BR 251** (relating to the public employee health insurance trust fund), **BR 289** (relating to an income tax deduction for qualified tuition programs), **BR 337** (relating to tax increment financing), **BR 341** (relating to coal severance revenues), **BR 371** (relating to donated clothing, household items, or other items), **BR 441** (relating to taxation), **BR 442** (relating to tax credits for airport noise mitigation), **BR 474** (relating to tangible personal property used in the production of equine) and **BR 801** (relating to the taxation of electronic cigarettes) to **Appropriations and Revenue**; **BR 202** (relating to credit freezes for protected consumers), **BR 206** (relating to credit freezes for protected consumers), **BR 310** (relating to utilization reviews) and **BR 492** (relating to insurance coverage of autism spectrum disorders) to **Banking and Insurance**; **BR 249** (relating to maximum class size), **BR 252** (relating to school accountability), **BR 298** (relating to tuition waivers for foster children), **BR 319** (relating to school safety and declaring an emergency), **BR 340** (relating to military service), **BR 348** (relating to financial literacy), **BR 356** (a resolution encouraging school bus safety), **BR 364** (relating to prevention-oriented child sexual education), **BR 369** (a concurrent resolution encouraging the Kentucky Board of Education to continue and expand collaboration with the Council on Postsecondary Education, the Education Professional Standards Board, the Kentucky Chamber of Commerce, and industry interests to develop and align policies and practices to support strong career pathways that help more students earn industry and postsecondary credentials and obtain good jobs), **BR 396** (relating to interscholastic extracurricular activities), **BR 402** (relating to cardiopulmonary resuscitation training in schools), **BR 466** (relating to school councils), **BR 490** (relating to child abuse information in schools), **BR 800** (relating to districts of innovation), **BR 817** (relating to the posting of historical documents) and **BR 856** (relating to nonteaching time for teachers) to **Education**; **BR 228** (relating to municipal electric authorities), **BR 463** (relating to nuclear power) and **BR 476** (relating to electric utility billing) to **Energy**; **BR 14** (relating to court-ordered outpatient mental health treatment), **BR 24** (relating to breast-feeding), **BR 25** (a concurrent resolution recognizing the importance of removing barriers to breastfeeding in the Commonwealth), **BR 88** (relating to oral health care and making an appropriation therefor), **BR 131** (relating to Medicaid provider appeals and declaring an emergency), **BR 189** (relating to abandoned infants), **BR 239** (relating to telehealth services), **BR 260** (relating to the address protection program and declaring an emergency), **BR 292** (prohibiting the use of public resources for abortion services), **BR 332** (a joint resolution relating to a per diem increase for the care of children placed in state foster homes), **BR 378** (relating to eligibility for public assistance), **BR 380** (relating to welfare to work), **BR 409** (relating to abandoned infants) and **BR 895** (relating to mental health) to **Health and Welfare**; **BR 3** (relating to concealed deadly weapons training), **BR 26** (relating to arrest-related deaths), **BR 43** (relating to offenses committed in a continuing course of conduct against vulnerable victims), **BR 52** (relating to distribution of sexually explicit images without the consent of the person depicted), **BR 64** (relating to personal safety and declaring an emergency), **BR 213** (relating to autopsy records), **BR 219** (relating to drone harassment), **BR 234** (relating to synthetic drugs), **BR 272** (relating to temporary removal hearings), **BR 362** (relating to evidence in medical malpractice actions), **BR 428** (relating to funding of government services and making an appropriation therefor), **BR 435** (relating to crimes and punishments), **BR 467** (relating to judicial redistricting), **BR 486** (relating to qualified immunity) and **BR 885** (a concurrent resolution directing the staff of the Legislative Research Commission to study the racial demographics of Kentucky's criminal juries) to **Judiciary**; **BR 288** (relating to exemptions from workers' compensation coverage) and **BR 301** (relating to Kentucky jobs) to **Labor and Industry**; **BR 144** (relating to horse racing), **BR 196** (relating to the appropriate care and disposition of human remains) and **BR 806** (relating to horse racing) to **Licensing and Occupations**; **BR 156** (relating to planning and zoning in consolidated local governments) and **BR 322** (creating the Office of Inspector General in the Department for Local Government) to **Local Government**; **BR 408** (relating to state authority to regulate air quality) and **BR 805** (relating to chemical munitions disposal and declaring an emergency) to **Natural Resources and Environment**; **BR 63** (relating to reemployment of retired police officers), **BR 164** (relating to open records), **BR 179** (proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly), **BR 300** (a concurrent resolution urging the Congress of the United States to propose an amendment to the Constitution of the United States to allow Congress and the States to set reasonable limits on spending to influence elections), **BR 307** (related to unclaimed property), **BR 334** (proposing to amend Sections 91, 93, and 95 of the Constitution of Kentucky relating to the Commissioner of Education), **BR 432** (relating to government contracts) and **BR 822** (proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers) to **State Government**; **BR 8** (relating to concealed deadly weapons training), **BR 61** (relating to motor vehicle registration fees), **BR 140** (a joint resolution designating the "Breckinridge County Veterans Memorial Highway"), **BR 326** (relating to the distribution of fuel tax revenues and declaring an emergency), **BR 407** (relating to the Kentucky Driver Manual) and **BR 416** (a joint resolution designating a portion of Kentucky Route 324 in Mason County in honor and memory of Colonel Charles Young for his dedication and service to our country and distinction as the highest-ranking African American officer in the United States Armed Forces until his death) to **Transportation.**

From Senator Albert Robinson and Representative Will Coursey, Co-Chairs of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection: Memorandum requesting authorization, approval, and membership of the Subcommittee on State Police Safety Measures.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum regarding the Inauguration Day Reception.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum regarding request for proposals for a consultant to evaluate the funding process of the Louisville Arena Authority.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum regarding membership of Interim Joint Committees, Subcommittees, and Special Committees.

Communications

From the Office of the Attorney General: Constitutional Challenge Report for the months of August, September, and October 2015.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of September, October, and November 2015.

From the Cabinet for Economic Development: Construction Activity Reports for each loan approved as of the quarter ending September 30, 2015. Pursuant to KRS 154.20.

From the Teachers' Retirement System of Kentucky: FY 15 In-state Investment Report as of June 30, 2015. Pursuant to KRS 161.430.

From the Public Protection Cabinet, Department of Insurance: 2015 Joint Report on the Kentucky Long-Term Care Partnership Program. Pursuant to KRS 304.14-640.

From the Cabinet for Health and Family Services, Department for Community Based Services: Response to Citizen Review Panel 2015 Annual Report.

From the Cabinet for Health and Family Services: Report of the Department for Community Based Services Tuition Waiver Program for Youth for the reporting period September 2014-August 2015. Pursuant to KRS 164.2847(7).

From the Personnel Cabinet: Executive Summary of the 2015 Annual Report from the Kentucky Group Health Insurance Board. Pursuant to KRS 18A226(5)(b).

From the Justice and Public Safety Cabinet: 2015 Annual Report of the Motorcycle Safety Education Program. Pursuant to KRS 15A.366.

From the Cabinet for Economic Development: FY 15 Linked Deposit Loan Investment Program Annual Report. Pursuant to KRS 41.606.

From the Personnel Cabinet: Personnel Cabinet Quarterly Reports as of September 30, 2015. Pursuant to KRS 61.392.

From the School Facilities Construction Commission: FY 15 Report of the Emergency and Targeted Investment Fund's activities. Pursuant to KRS 157.618.

From the Kentucky Employers' Mutual Insurance Authority: 2016 Administrative Budget and Financial Status and Actuarial Condition for the year ended December 31, 2014. Pursuant to KRS 342.813(3)(b).

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 3, 4, and 5 of BFY 2016, and year-to-date activity for the period of July 1, 2015, through November 30, 2015. Pursuant to KRS 42.190.

From the Cabinet for Health and Family Services: Summary of Statement of Non-Compliance Findings, Assisted Living Community Certification Reviews FY 2015. Pursuant to KRS 194A.707(8).

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, quarter ending September 30, 2015. Pursuant to KRS 342.232(2).

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the third quarter of 2015. Pursuant to KRS 199.565.

From the Kentucky Higher Education Assistance Authority: FY 2015 Annual Actuarial Valuation of the Prepaid Tuition Trust Fund for Kentucky's Affordable Prepaid Tuition (KAPT). Pursuant to KRS 164A.704(8).

From the University of Kentucky: FY 15 Kentucky Interagency Groundwater Monitoring Network Annual Report. Pursuant to KRS 151.625.

From the Cabinet for Economic Development: FY 15 Bluegrass State Skills Corporation Annual Report. Pursuant to KRS 154.12.208.

From the Tourism, Arts, and Heritage Cabinet: FY 15 Kentucky Production Industry Incentives Program Annual Report. Pursuant to KRS 148.546.

From the Tourism, Arts, and Heritage Cabinet: FY 15 Kentucky Tourism Development Act Incentives Annual Report. Pursuant to KRS 148.8591.

From the Personnel Cabinet: FY 2015 Annual Report.

From the Cabinet for Economic Development: 2015 Kentucky Angel Investment Act Summary. Pursuant to KRS 154.20-230.

From the Cabinet for Economic Development: FY 15 Agricultural Warehousing Sites Cleanup Fund Annual Report. Pursuant to KRS 224.01-020.

From the Cabinet for Economic Development: FY 15 Incentives for Energy Independence Act Annual Report. Pursuant to 154.27-050(4).

From the Cabinet for Economic Development: FY 15 Kentucky Enterprise Initiative Act Annual Report. Pursuant to KRS 154.31-030.

From the Cabinet for Economic Development, Department of Financial Incentives: FY 15 Kentucky Investment Fund Act Annual Report. Pursuant to KRS 154.20-264(2).

From the Cabinet for Economic Development: FY 15 Annual Report of the Kentucky Cabinet for Economic Development, Office of Entrepreneurship.

From the Kentucky Energy and Environment Cabinet: 2008-2014 Kentucky Environmental Quality Commission Overview.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of June 30 and September 30, 2015.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2015.

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period July 1 through September 30, 2015.

From the Cabinet for Health and Family Services: 2015 Annual Report of Kentucky Child Victims of Human Trafficking. Pursuant to KRS 620.029(2)(b).

From the Cabinet for Health and Family Services: FY 15 Medicaid Fraud and Abuse Annual Report. Pursuant to KRS 205.8483(3).

From the Kentucky Office of Homeland Security: 2015 Annual Report and Supplement.

From the Public Protection Cabinet, Department of Insurance: 2015 Bi-annual Report on Impact of Mental Health Parity on Health Insurance Cost in Kentucky. Pursuant to KRS 304.17A-665.

From the Cabinet for Health and Family Services: 2015 Kentucky Commission on Services and Supports for Individuals with Intellectual and Other Developmental Disabilities Annual Status Report. Pursuant to KRS 210.577.

From the Kentucky Legislative Ethics Commission: FY 15 Annual Report. Pursuant to KRS 6.666(16).

From the Department for Local Government, Cities and Special Districts Branch: Special Purpose Governmental Entity Report. Pursuant to KRS 65A.020(6).

From the Energy and Environment Cabinet: FY 15 Annual Report of the Center for Renewable Energy Research and Environmental Stewardship. Pursuant to KRS 152.713.

From the Education and Workforce Development Cabinet, Department of Education: 2015 Physical Activity Update. Pursuant to KRS 160.345(11).

From the Kentucky Housing Corporation: FY 15 Kentucky Affordable Housing Trust Fund Awards. Pursuant to KRS 198A.715.

From the University of Kentucky: 2015 Geological Survey Annual Report.

From Northern Kentucky University: FY 15 Annual Financial Report.

From the Executive Branch Ethics Commission: 2011-2013 Biennial Report. Pursuant to KRS 11A.110(13).

From the Kentucky Law Enforcement Council: 2015 Annual Report on Mandatory Training for Peace Officers. Pursuant to KRS 15.334.

From the Justice and Public Safety Cabinet: 2015 Child Fatality and Near Fatality External Review Panel Annual Report. Pursuant to KRS 620.055.

From the Kentucky Retirement Systems: FY 15 Financial Statements and Supplementary Information. Pursuant to KRS 45.149(2)(a) and 61.645(12).

Other Business

Acceptance of NCSL Final Report: Comparative Staff Structures, Policies and Practices.

Approval to revise the eligibility and determination guidelines for the Vic Hellard, Jr. Award.

Approval to adopt an updated Computer and Network Policy (December 2015 Edition).

David Byerman introduced Morgain Sprague, General Counsel to the Legislative Research Commission. Ms. Sprague has been the general counsel for the Kentucky State Police and has been a key player on the Capitol campus in recent sessions.

Mr. Byerman also announced the hiring of Bill O'Brien as the Assistant Director for Human Resources and Professional Development. Mr. O'Brien most recently served as the Director of Wellness and Benefits at Rutgers University. He has served with the staff of the New Jersey state legislature and New Jersey state government. Mr. O'Brien's start date will be January 4.

Ms. Sprague said that she is honored to be serving as general counsel and representing the Legislative Research Commission. Ms. Sprague indicated that Supreme Court rules are very clear on ethical obligations and standards moving forward, and she is honored to be serving in her official capacity as general counsel, and expressed her appreciation for the opportunity.

Senator Stivers recognized the facilities staff in the Capitol and Annex and how clean they keep the buildings, floors, brass, and restrooms. He wanted to express his appreciation for the great job they do taking care of the 138 legislators.

Representative Stumbo agreed that the cleaning crew does a great job.

Mr. Byerman offered his appreciation to the legislators who helped pay for the staff holiday party, for which there were no taxpayer dollars used. He said that he had asked for support from legislators, that they had responded, and that he wanted to publicly express his appreciation for those who helped fund the event.

There being no further business, the meeting was adjourned.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

December 9, 2015

Call to Order and Roll Call

The Government Contract Review Committee met on Wednesday, December 9, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Dennis Horlander, 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, and Paul Hornback; Representative Jim Gooch Jr.

Guests: Jennifer Linton, Andy Casebier, Geri Grigsby, Don Spear, Russ Salsman, Harry Carver, and Bill Pauley.

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

A motion was made by Senator Wise to approve Minutes of the November 2015, meeting of the committee. Representative Gooch seconded the motion, which passed without objection.

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

McBrayer, McGinnis, Leslie and Kirkland, 1600000962.

CORRECTIONS, DEPARTMENT OF:

Association of State Correctional Administrators, Inc., 1600000737.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Martine Turns, Psy.D. PLLC, 1600000789; John D. Ranseen, 1600000790; Susan Brittain, 1600000791.

EASTERN KENTUCKY UNIVERSITY:

Gess, Mattingly & Atchison, P.S.C., 16-163; Stoll Keenon Ogden, PLLC, 16-166.

EDUCATIONAL TELEVISION, KENTUCKY:

Carolyn Hoagland, 1600000675.

KENTUCKY HOUSING CORPORATION:

Matt Fiscus, KHC-2016-1.

MILITARY AFFAIRS, DEPARTMENT OF:

Safe Transportation Training Specialists, LLC, 1600000739.

MURRAY STATE UNIVERSITY:

Rick Walter/Boehl, Stopher & Graves, LLP, 010-16.

NORTHERN KENTUCKY UNIVERSITY:

Cardno ATC, 2016-712.

POST SECONDARY EDUCATION, COUNCIL ON:

The Lampo Group, Inc., 1600000824.

REAL ESTATE APPRAISERS BOARD:

McBrayer, McGinnis, Leslie and Kirkland, 1600000810.

SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY, BOARD OF:

Marisa Neal, 1600000771.

TRANSPORTATION CABINET:

Burgess and Niple, Inc., 1600000845; URS Corporation, 1600000934; QK4, Inc., 1600000935; Integrated Engineering, 1600000938; BTM Engineering, Inc., 1600000940.

UNIVERSITY OF KENTUCKY:

Ross Tarrant Architects, Inc., A161110; Cook Ross, Inc., K16-165; Steel River Tech, LLC, K16-166; Fredrikson & Byron, P.A., K16-167; Paul Mostert, K16-168; Aspect Software, Inc., K16-169; Computer Task Group, Inc., K16-170; IBM, K16-171; Leidos Health, LLC, K16-172; Software Information Systems, LLC, K16-173; The CSI Companies, Inc. d/b/a CSI Healthcare IT, K16-174.

Workers Claims, Department of:

Fair Health, 1600000669; Fair Health, 1600000671

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE

REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Child Care Council of Kentucky, 1400001229.

DEPARTMENT FOR INCOME SUPPORT:

Psych, Inc., 1400002448.

DEPARTMENT FOR PUBLIC HEALTH:

Kentucky Hospital Research & Education Foundation, 1400001125.

EASTERN KENTUCKY UNIVERSITY:

Crowe Horwath, LLP, 16-079; Mountjoy Chilton Medley, 16-080.

FINANCE AND ADMINISTRATION CABINET:

The Baller Herbst Law Group, PC, 1500001040; Pension Trustee Advisors, 1600000160.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Ross Tarrant Architects, Inc., 1200001550; Staggs & Fisher Consulting Engineers, Inc., 1400000570; Murphy & Graves & Trimble PLLC, 1500000604; AMEC Foster Wheeler Environment & Infrastructure, Inc., 1500000606; ALT32, PSC, 1500000928; Omni Architects, 1500001238; Clotfelter Samokar, PSC, 1500001995; CMTA, Inc., 1500002374; THP Limited, Inc., 1500002870.

FISH & WILDLIFE, DEPARTMENT OF:

Jonathan Mangin, 1400002000; The Animal Clinic, P.S.C., 1500000291.

MURRAY STATE UNIVERSITY:

Facility Commissioning Group, 003-16; Murphy + Graves + Trimble, PLLC, 015-15.

TRANSPORTATION CABINET:

ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1100001049; Strand Associates, Inc., 1200000019; DLZ Kentucky, Inc., 1200000786; HDR Engineering, Inc., 1200001709; American Engineers, Inc., 1300000363; Stantec Consulting Services, Inc., 1300000367; QK4, Inc., 1300001567; EA Partners, PLC, 1300002652; Municipal Engineering Company, 1300003012; QK4, Inc., 1300003161; Arnold Consulting Engineering Services, Inc., 1400000014; Garver, LLC, 1400000256; HMB Professional Engineers, Inc., 1400000389; Palmer Engineering Company, 1400000708; Strand Associates Inc., 1400000729; HMB Professional Engineers, Inc., 1400001002; Ica Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1400001576; Strand Associates, Inc., 1500001032; CDP Engineers, Inc., 1500001103; H A Spalding, Inc., C-00120549-5; Johnson Depp and Quisenberry, C-01167628-6; Quest Engineers, Inc., C-03117944-1; H A Spalding, Inc., C-99005052-6; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., C-99005084-5.

UNIVERSITY OF KENTUCKY:

Ross Tarrant Architects, A0131090; Grant Cooper & Associates, K15-118; Fourth Quadrant, d/b/a Merge, K16-124.

UNIVERSITY OF LOUISVILLE:

Multi, 15-012; Multi, 15-059; Multi, 15-061; Multi, 15-062-A-H.

VETERANS AFFAIRS, DEPARTMENT OF:

ARH Regional Medical Center, 1400001274.

WESTERN KENTUCKY UNIVERSITY:

Hafer Associates, 141634.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1600000957; Morehead State University, 1600000958; Morehead State University, 1600000959; National Center for State Courts, 1600000960; Morehead State University, 1600000961.

AGRICULTURE, DEPARTMENT OF:

Madison County Fair and Horse Show, 1600000844; Casey County Fair, 1600000846; Rockcastle County Fiscal Court, 1600000848; Allen County Fiscal Court, 1600000849; Garrard County Fair, 1600000853; Grant County Fair, 1600000854; Woodford County Fair, 1600000855.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Volunteers of America of Kentucky, Inc., 1600000752; Chrysalis House, Inc., 1600000753; Transitions, Inc., 1600000754.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Green River Regional Mental Health and Mental Retardation Board, 1600000636; NAFMNP, 1600000662; Office of Employment and Training, 1600000892.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Western Kentucky University Research Foundation, 1600000670; KAEE, 1600000761.

EDUCATION, DEPARTMENT OF:

Jefferson County Board of Education, 1600000190.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Butler County Fiscal Court, 1600000830; City of Eminence, 1600000890.

OFFICE OF THE KENTUCKY HEALTH BENEFIT EXCHANGE:

Kentucky Health Departments Association, Inc., 1600000647.

POST SECONDARY EDUCATION, COUNCIL ON:

Eastern Kentucky University, 1600000432; Council for Opportunity In Education, 1600000751.

UNIVERSITY OF KENTUCKY:

Dept. of Criminal Justice Training, Eastern Kentucky University, MOA-004-16.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1300001380; Morehead State University, 1300001507; Pennyroyal Mental Health, 1300001740; Morehead State University, 1300002591.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1600000228.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Bell Whitley Community Action, 1500001291.

DEPARTMENT FOR MEDICAID SERVICES:

Department of Education, 1400001004.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky, 1300001321.

DEPARTMENT FOR PUBLIC HEALTH:

University of Kentucky Research Foundation, 1400001614; Kentucky Board of Emergency Medical Service, 1400003220.

EDUCATION, DEPARTMENT OF:

University of Wisconsin Madison, 1400003339; Jefferson County Board of Education, 1500002349; Newport Independent Board of Education, 1500002376; Newport Independent Board of Education, 1600000036.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Lewis County Fiscal Court, 1300000660; Floyd County Health Department, 1400003658; Monroe County Fiscal Court, 1500000314; Letcher County Fiscal Court, 1500001379; Leslie County Fiscal Court, 1500001455; Cumberland County Fiscal Court, 1500001635; Menifee County Fiscal Court, 1500001844; Menifee County Fiscal Court, 1500001851.

WORKFORCE INVESTMENT, OFFICE OF:

Center for Accessible Living, 1500000262.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

CMTA, Inc. Consulting Engineering, 1600000509. Jennifer Linton and Andy Casebier discussed the contracts with the committee. A motion was made by Representative Gooch to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

FINANCE AND ADMINISTRATION CABINET:

Vanantwerp Attorneys, LLP, 1400003623. Geri Grigsby and Don Spear discussed the contracts with the committee. A motion was made by Senator Wise to consider the contracts as reviewed. Representative Gooch seconded the motion, which passed with Senators Hornback, and Wise voting no and Senator Raque Adams voting to pass.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

K. Norman Berry Associates, 1500000668. Jennifer Linton and Andy Casebier discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Gooch seconded the motion, which passed.

THE FOLLOWING MEMORANDUM OF AGREEMENTS FOR $50K AND UNDER WERE SELECTED FOR FURTHER REVIEW:

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Pikeville, 1600000834; City of Springfield, 1600000841; City of Shelbyville, 1600000842; City of Scottsville, 1600000856; City of Carrollton, 1600000924; City of Paducah, 1600000925; City of Dayton, 1600000926. Russ Salsman, Harry Carver, and Bill Pauley discussed the contracts with the committee. A motion was made by Senator Hornback to disapprove the contracts. Senator Raque Adams seconded the motion, which did not pass with Representatives Gooch and Horlander voting no. A motion was made by Representative Gooch to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed with Senators Raque Adams, Hornback, and Wise voting no.

EXEMPTION REQUEST:

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment Cabinet requested an exemption from the two year contracting restrictions and an exemption from the committee's routine review process for Division of Abandoned Mine Lands Waterline Memoranda of Agreements. A motion was made by Representative Gooch to grant the request to December 31, 2016. Representative Horlander seconded the motion, which passed.

OFFICE OF HOMELAND SECURITY:

The Office of Homeland Security requested an exemption from the committee's routine review process for all agreements issued as instruments of obligation for funds under State and Federal Homeland Security Grant Programs and will provide quarterly reports to expire June 30, 2018; and requested an exemption for two year contracting restrictions for State and Federal Homeland Security Grant programs to expire June 30, 2018. A motion was made by Representative Gooch to grant the request to June 30, 2018. Representative Horlander seconded the motion, which passed.

DEPARTMENT OF MILITARY AFFAIRS, OFFICE OF THE ADJUTANT GENERAL:

The Department of Military Affairs, Office of the Adjutant General requested an exemption from the committee's routine review process for federally funded Chemical Stockpile Emergency Program (CSEPP) agreements, and FEMA funded MOAs and grants for declared emergencies. A motion was made by Representative Gooch to grant the request to December 31, 2016. Representative Horlander seconded the motion, which passed.

With no further business before the committee, the meeting adjourned at 10:30 a.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

December 2, 2015

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, December 2, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Senators Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Tom McKee, Terry Mills, and Jonathan Shell.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Ms. Angela Blank, Ms. Beth Herbert, and Dr. Luther Hughes, Governor's Office of Agricultural Policy; Dr. Alison Davis and Mr. James Mansfield, Community and Economic Development Initiative of Kentucky; Mr. Van Ingram, Ms. Heather Wainscott, and Ms. Amy Isaacs, Kentucky Agency for Substance Abuse Policy.

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

The October 7, 2015 minutes were approved, without objection, by voice vote, upon a motion by Senator Parrett, second by Representative Mills.

Governor's Office of Agricultural Policy

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

GOAP officials summarized funding allocations for the previous months under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and Shared-use programs.

Major statewide projects summarized included: Kentucky State University, Frankfort, $990,000 in state tobacco settlement covering two years for a program to provide mini-grants that will assist small farmers and producers with limited resources; Knotty Corner Cafe LLC, Knott County, $5,000 in state funds to purchase locally grown and raised produce from farmers for a cafe and market; Kentucky Center for Agriculture and Rural Development (KCARD), Elizabethtown, $700,000 in state tobacco settlement funds granted for a two-year span to enable KCARD to deliver technical assistance and provide educational opportunities for agriculture-based and rural businesses; Russell County Cattlemen's Association, Russell County, $20,000 in Russell County funds to initiate a heifer production program for 4-H and FFA youth.

Responding to Representative McKee, Mr. Neaveill described the work of KCARD. He told the representative that the organization has existed for several years, initially formed as the Center for Cooperative Development. He also said KCARD staff are doing some work currently in sections of Eastern Kentucky, for example, a farmers' market in Pikeville.

Mr. Thomas pointed out that KCARD has been able to leverage its tobacco funds grant with federal funds, thereby increasing its overall funding. Senator Parrett said he was familiar with the organization. He mentioned the work that KCARD did in relation to the formation of an Elizabethtown farmers' market.

Senator Parrett asked for more information on the Knotty Corner Cafe project, which received tobacco settlement funds even though Knott County does not ordinarily receive an allocation of agricultural development funds. Mr. Rogers described how the county had received tobacco funds several years ago as part of a drought relief program. Mr. Neaveill pointed out, too, that aspects of the Kentucky Proud marketing program, which receives Master Settlement Agreement (MSA) funds, benefit businesses with no direct connection to the tobacco settlement funding system.

As the GOAP officials ended their report, mentioning the latest county council account ledger sheet, Representative McKee commended the work that county councils do in granting funds at the local level.

Mr. Thomas, who had served as Executive Director of the GOAP for about eight years, expressed his appreciation to the committee and the panel's support of the Agricultural Development Fund. He also mentioned the GOAP staff and thanked the Governor for allowing him to serve.

Subsequent to Mr. Thomas's remarks, the committee adopted a resolution in his honor and commending his dedication and service to the state's agriculture community. Representatives McKee and Denham, and Senators Webb, Parrett, and Embry lauded the GOAP Executive Director's work.

Agricultural Development Board Investments Evaluation

University of Kentucky professors Dr. Alison Davis and Mr. James Mansfield presented the results of an evaluation of the Agricultural Development Board tobacco settlement investments from 2007-2014. The evaluation, which following an earlier study covering 2001-2007, looked at the impact of tobacco settlement funds grants and loans in three areas – state-funded projects, the CAIP program, and the Agricultural Finance Corporation, which is primarily a farm loan program.

The goal of the evaluation was to assess the effectiveness and impact of the Agricultural Development Board's investments between 2007 and 2014. Dr. Davis summarized some of the findings in the report, mentioning that every dollar invested in the state-funded projects yielded $2.03 in economic impacts. The highest impact was seen in the marketing and promotion part, $3.07 for every dollar put in. According to the report, the board invested $198 million in programs and projects during the study period, resulting in 465 products created and 77 markets either created or expanded. The board invested $42 million in state and county projects, an investment that has resulted in an estimated $86 million in additional farm income and 708 new or expanded jobs. Other highlights of the report were that 33,958 farmers were estimated to have been affected by the state-funded projects, of which 17,617 current or former tobacco growers.

Under the county programs, more than $100 million was invested with over 61,000 people participating. As for the Agricultural Finance Corporation's loan program, a beginning farm loan program was highly regarded, according to the report.

The report made several recommendations in each aspect of the three investment areas.

Dr. Davis indicated it she enjoyed meeting project directors and the expert panels who helped evaluate impacts. She noted that people said Kentucky would not be where it is without the Agricultural Development Fund. She talked about the envy that exists regarding the initial legislation (House Bill 611) establishing the Agricultural Development Fund and what the endeavor has done for agriculture in the state.

Senator Hornback praised the report and asked about the agricultural diversity that could be accomplished in the state, considering that the federal tobacco buyout has closed out. Dr. Davis responded that, overall, farmers in the state are better off and the buyout funds are not as critical as they once were. Mr. Mansfield cited the growth of the livestock industry in the state the overall production improvements, better genetics.

Senator Webb and Representative Denham commented on a recommendation in the report that tobacco production history should not be a significant factor in the Agricultural Development Fund program requirements. Both talked about the impact that tobacco production had on their region of the state and that the impact still exists. Dr. Davis responded that Eastern Kentucky is under-represented in the distribution of projects. She said the group tried to take a "holistic view" in the overall report, looking at the entire state. She mentioned one recommendation: that the board should consider publicizing the availability of the tobacco funds through a request-for-proposal approach.

Responding to Representative McKee, Dr. Davis described a star scoring chart that was included for state-funded projects. According to Dr. Davis, a lot of the projects earning two stars (the top projects earned five) have since closed.

Kentucky Agency for Substance Abuse Policy (KY-ASAP) Report

Mr. Van Ingram, Executive Director, Ms. Heather Wainscott, Branch Manager, Kentucky Office of Drug Control Policy, and Ms. Amy Andrews, KY-ASAP Program Coordinator, presented the annual report of the KY-ASAP, which operated on a $1.7 million budget in FY 2015. KY-ASAP awards grants to local boards in most counties that work in combatting drug, alcohol and tobacco use.

In opening remarks, Mr. Ingram said that last year, KY-ASAP was facing a potential funding cut, but funding was restored by virtue of legislation in the 2015 Regular Session, plus the agency received additional appropriations because of the Senate Bill 192, the heroin bill that passed in the same session. He indicated the Senate Bill 192 funding allowed the agency to establish an additional grant program for counties to fight drug abuse.

Ms. Wainscott described the county programs, made mention of regional trainings that have been conducted, discussed a prescription drug disposal endeavor, talked about the agency's collaboration with the Partnership for a Drug-Free America, and made note of a drug-free communities support program.

Responding to Senator Embry, Ms. Andrews explained that there have been conversations with local officials in two counties that have not established local boards, Harlan and Elliot. Senator Webb commented that she would talk to officials in Elliot County about the KY-ASAP agency.

In a response to Representative Denham, Mr. Ingram explained KY-ASAP has seen positive results related to the overdose situation, but the use of hydrocodone, an opioid pain medication, remains a persistent problem. He said there needs to be a "national conversation" on hydrocodone abuse.

Responding to Representative Mills, Mr. Ingram indicated the Kentucky KASPER electronic prescription reporting system has been successful. Since Kentucky established its program, 11 other states have established similar programs.

Mr. Ingram, responding to Representative McKee, described the criteria used in granting funds to individual counties.

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

PUBLIC PENSION OVERSIGHT BOARD

Meeting

December 17, 2015

Call to Order and Roll Call

The Public Pension Oversight Board meeting was held on Thursday, December 17, 2015, at 12:00 p.m., in Room 169 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, John Chilton, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Representatives Arnold Simpson, Derrick Graham, Jerry Miller; Mike Harmon, Representative and Auditor of Public Accounts-Elect; Travis Mayo, Assistant Attorney General; Bill Thielen, Executive Director, Kentucky Retirement Systems; Beau Barnes, Deputy Executive Secretary, Kentucky Teachers' Retirement System; Donna Early, Executive Director, Judicial Form Retirement System

LRC Staff: Brad Gross, Committee Staff Administrator; Greg Woosley, Assistant General Counsel; Terrance Sullivan, Analyst; Bo Cracraft, Analyst; and Maurya Allen, Committee Assistant.

Approval of Minutes

Senator Bowen moved that the minutes of the November 23, 2015, meeting be approved. Senator Higdon seconded the motion, and the minutes were approved without objection.

Kentucky Retirement Systems Actuarial Valuation/Financial Statements

Mr. Bill Thielen, Executive Director, Kentucky Retirement Systems (KRS), was present to provide an update regarding the systems' actuarial valuation and financial statements. Mr. Thielen began by directing members' attention to tables of financial information from the audited financial statements. He added that the full financial statements, which are comprehensive annual financial reports, and the valuation of all the plans are provided on the KRS website. The first item he covered was the net plan position at the end of the past fiscal year compared to the previous year. At the end of the 2014-15 fiscal year, KRS had $15.89 billion in assets, down from the $16.17 billion at the end of the 2013-14 fiscal year. Also, the pension fund had lost $369 million while the insurance fund had gained approximately $92 million during the year. The investment return data indicated that $204 million net return versus $1.6 billion in the prior year. Pension return rate was 2.01 percent and insurance return rate was 1.86 percent, both were well below desired rates.

The actuarial returns results were then covered, beginning with an overview of the equation used by the systems actuaries. The 2015 valuation results reflect assumption changes made by the Board of Trustees following the experience study covering the years of 2008-2013. The experience study showed how the actual experience of the plans differed from expectation and the assumptions changed were withdrawal rates (inactive members), retirement rates, mortality rates, and disability rates for three plans. Adjustments were also made regarding healthcare coverage. Senator Bowen asked what effect the withdrawal rates had on the system valuations. Mr. Thielen stated that when a member withdraws from the plan, that individual no longer accrues service credit, resulting in a liability. The actuaries make assumptions about how many individuals will withdraw in a year versus how many will remain, thus resulting in the liability of that to the whole system.

Mr. Thielen continued to explain that the actuaries had suggested a reduction in price inflation from 3.5 to 3.25, thus reducing the assumed rate of return on investment from 7.75 percent to 7.5 percent. All of these changes were adopted in August in order to be part of the valuation process. He then highlighted the funded status of each of the plans at the end of 2015 versus the end of 2014. Particularly, KERS Non-Hazardous pension fund decreased from 21 percent funded to 19 percent. Mr. Thielen largely attributed the decrease for all the pension plans to the change in assumptions. Alternatively, most of the insurance plans' funded status improved. The State Police Retirement System (SPRS) pension fund also decreased to 33.8 percent funded. He stated that if KRS meets its expected rate of return next year, all plans except KERS Non-Hazardous and SPRS should increase in funded status.

Mr. Thielen addressed state contribution rates resulting from the 2015 valuation. The 2016 rates were also highlighted, for both pension and insurance. This year, the state paid 38.77 percent of payroll, but next budget cycle, based on the 2015 valuation, the state will contribute 47.28 percent. The KERS Hazardous rate will decrease from 26.34 percent to 23.82 percent and SPRS will increase from 75.76 percent to 85.34 percent. The market value investment return for the system was less than anticipated at 2.01 percent for pensions, but because investment returns are smoothed over a five-year period, the actual value of investment returns was greater than the desired 7.5 percent because it is possible to factor in three years of double-digit returns. Senator Bowen asked if the language of Senate Bill 2 of the 2013 Regular Session, where smoothing for the purpose of calculation of benefits was addressed, supported the decision to smooth on the past five years instead of looking from the point where the bill took effect, meaning from 2014 onwards. Mr. Thielen stated that Senate Bill 2 was silent on the direction of smoothing, and if KRS had not looked backward, all of the members added from January 1, 2014 would not receive an investment return credit over and above 4 percent for an additional 5 years. Senator Bowen asked if anyone was retiring at that time for it to affect. Mr. Thielen stated that it was the impression of KRS that the intent of the General Assembly was, beginning January 1, 2014, to give individuals in the hybrid-cash plan the benefit of returns in excess of 4 percent. Senator Bowen asked if that was an assumption being made because it was not explicitly stated in the text of the law. Mr. Thielen stated that yes, and it was in an effort to not discriminate against individuals joining during the first four years. Senator Bowen stated that it doesn't give a real impression of returns because the smoothing captures returns before the system had a hybrid-cash structure. Mr. Thielen said that the system uses a geometric average of returns to determine the amount over 4 percent guaranteed credit. Secondly, the actuarial smoothing method only dampens the volatility in the employer contribution portion. Senator Bowen stated that he was concerned that it was not the intent of the legislation to allow a retrospective smoothing process. Mr. Thielen answered that in the absence of having an explicit direction, the system had made its best interpretation of the legislation, but if the General Assembly wished to change legislation to make it more explicit, the system would comply.

Senator Higdon said that it had also been his understanding of the legislation. The current practice seemed contrary to the intent and smoothing would make it difficult going forward to truly understand the investment returns being made by the system. Mr. Thielen reiterated that smoothing did not have any impact on determination of the interest credit under the hybrid-cash balance plan. Smoothing only serves to take into account investment returns over a 5-year period so the systems do not absorb into the contribution rate gains or losses from a single year. Public pension plans all over the country utilize smoothing anywhere from five to fifteen years to dampen volatility of the contribution rate from year to year depending on market returns. Senator Higdon asked how other plans with a hybrid-cash balance structure handle the earned investment credit. Mr. Thielen said he did not have the language of the bill with him, but in his recollection the legislation guarantees a 4 percent investment return credit and then shares 75 percent of amounts over 4 percent based on a five-year geometric average. Nothing in the bill said to wait to implement this for five years, instead it incorporated a five-year geometric average. So the system made the assumption that with the legislation going into effect January 1, 2014, they would use an average of the immediately preceding five-year period to calculate the investment return credit.

Mr. Thielen stated that according to the actuaries there was a decrease in funding ratios for all the pension funds. The amortization period was reset in Senate Bill 2 of the 2013 Regular Session to 30 years effective with the 2013 fiscal year, so this valuation was based on 28 years. For the KERS Non-Hazardous and KERS Hazardous pension plans, the valuation results were compared showing 7.96 percent normal cost for the pension benefit under the benefit scheme currently set-up in KERS Non-Hazardous. The members pay 5 percent, the normal cost is 2.96 percent, and the administrative expenses are 0.64 percent. However, the rate to amortize the unfunded liability over a 28 year period is 35.33 percent. The total pension rate, based on the valuation, was 38.93 percent and the unfunded liability rose approximately $900 million, from $9.1 to $10 billion in the KERS Non-Hazardous plan. This equates to approximately 19 percent funded versus 21 percent at the end of 2014. Mr. Thielen briefly referenced SPRS and CERS plans, as well as insurance for KERS Non-Hazardous.

On December 3, 2015, the KRS Board of Trustees made a decision to lower the assumed rate of return on investments for the KERS Non-Hazardous plan and SPRS plan based on the experience study and asset liability modeling study. The recommendation from the actuaries, based on expected rates of return, was 6.75 percent. Senator Bowen asked if when rate of return is figured, if that is net or gross of fees. He also inquired as to what was standard practice for pension plans. Mr. Thielen answered that KRS calculates the investment return as net of all fees and commissions. Continuing with his presentation, Mr. Thielen reiterated that the recommendation was to reduce the assumed rate of return for KERS Non-Hazardous and SPRS plans to 6.75 percent, which the Board adopted effective July 1, 2015 to be used for the 2016 valuation. KRS is required by statute to set contribution rates based on the valuation which last occurred before the first day of a new budget year so the rates were adopted based on recommendations, but if they had been able to use a different rate for the valuation study, there would be a significant difference. Because of this, the Board of Trustees adopted a resolution to notify the General Assembly of that difference. With the reduced assumed rate of return the unfunded actuarial liability increased from $10 billion to $10.9 billion, the funded ratio dropped from 19.02 percent to 17.69 percent, and the pension contribution rate increased from 38.93 percent to 40.24 percent. Impact to SPRS was also highlighted by Mr. Thielen. Senator Higdon asked which of the contribution rates the bond rating agencies expected. Mr. Thielen answered that he did not believe there was an expectation, however, the more money that is contributed, the better the rating by a bond agency.

Mr. Thielen discussed payroll. In 2015, total reported payroll was $1.669 billion, and he estimated a 2 percent increase by 2017 resulting in an estimated payroll of $1.7 billion.

At 38.77 percent of payroll, which is the current contribution rate, the contribution would total $647 million. If the General Assembly appropriates the valuation rate, 47.28 percent, the contribution would rise to $806 million. This is just for KERS Non-Hazardous. If the 6.75 percent assumed rate of return is used, the percent of payroll necessary is 48.59 percent resulting in a total contribution of $828 million. Senator Bowen asked if the $158 million figure noted in the presentation was strictly the budget appropriation. Mr. Thielen answered that that figure included contribution from all sources. Senator Bowen asked what the specific contribution from the general fund would be. Mr. Thielen stated that he did not have that figure, it would come from the state budget office. It was his understanding that the general fund appropriation would be between 45 and 50 percent.

The actuarial required contribution for KERS Hazardous would actually decrease as a result of adjustments to the contribution rates, by approximately $3.6 million. The SPRS plan, using the valuation contribution rate, will see an increase of $5.6 million to its ARC. The total impact of using the assumed return rates of 7.5 percent used in the valuation study would result in an increase to the current contributions for the KERS and SPRS plans of $161 million. Using the adjusted rate of return of 6.75 percent, the increase would be approximately $184 million. The increase to CERS would be $49 million, due primarily to assumption changes. Mr. Harmon stated that he understood that KERS would rebound over time, and what the impact of changing contribution based on new assumed rates of return would have on the timing of that process. Mr. Thielen stated that increasing contributions in line with the new assumed rates of return would improve the process; however, he did not have those projections at this time. Senator Higdon asked if the change to the payroll growth assumption was an indication of change to come. Mr. Thielen answered that that assumption was one that had not changed in many years and that going forward, that figure will continue to be evaluated as changes to payroll, or lack thereof, become more apparent. He indicated that he had made some recommendations to the board regarding investigations into the payroll situation.

Chairman Yonts noted that Mr. Thielen's suggestions had been incorporated into the document regarding recommendations of the board. Senator Higdon also asked about effects of the Affordable Care Act on the CERS Hazardous plan regarding dependent children. Mr. Thielen clarified that it was the insurance contribution for dependent children of members in the CERS Hazardous plan that was in error. The change will go into effect January 1, 2016 and estimated costs are as high as $21 million, but it is not possible to calculate until the system enters the new plan year. Senator Higdon commented that it was crucial for the system and the legislature to work well together toward a solution. Mr. Thielen agreed with Senator Higdon's comments and encouraged members to attend Board of Trustees meetings as well to form an even more productive partnership between KRS leadership and the General Assembly.

Ms. Mattingly asked why the investment return assumption was 6.75 percent while the recommendation was 6.68 percent. Mr. Thielen answered that it was a result of an asset liability modeling study where the expected return was only 6.68 percent. In light of that, the actuaries made a recommendation based on investment management strategies which can better the return. Mr. Jefferson asked for a brief history of the changes to the assumed rate of return over the last several years. Mr. Thielen answered that when he began working at KRS in 2006 the assumed rate of return was 8.25 percent. In 2007 or 2008 the Board of Trustees lowered the rate to 7.75 percent. In August 2014, the rate was lowered again to 7.5 percent. Mr. Jefferson stated that what struck him from the valuation report was the change to funding levels and contribution rates, increasing far more following the last decrease of 0.25 percent than following the recommended decrease of 0.75 percent. The reason, as stated by Mr. Thielen, was the other assumption changes which had a major impact, such as the adjusted mortality tables. Mr. Jefferson also asked about how sensitive the contribution level is to the payroll assumption changes versus the assumed investment return. He wondered if the Board of Trustees had considered the ways in which changing the payroll growth assumptions would affect the contribution requirements. Mr. Thielen stated that in August, 2014, the Board of Trustees did discuss the changes to the payroll assumption along with other assumption changes. They had not discussed it in terms of sensitivity analysis, but actuaries have been asked to investigate that relationship more closely.

Representative Miller asked what the estimations would be based upon a flat payroll, particularly for the next two biennia. Mr. Thielen stated he did not have those numbers with him, but he would provide them to the board. Representative Graham asked about the privatization and the number of positions that have been lost. Chairman Yonts stated that that information had been requested and should be provided to the board by the January meeting. That information should help inform legislation intended to address the matter of payroll "leakage" from the system.

Kentucky Teachers' Retirement System Actuarial Valuation/Financial Statements

Mr. Beau Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System, and Mr. Mark Whalen, Chief Financial Officer, Kentucky Teachers' Retirement System, were present to key actuarial assumptions used by the system, updated actuarial assumptions, and updated financial statements. The assumed rate of return for Kentucky Teachers' Retirement System (KTRS) was 7.5 percent. Unique to KTRS was its requirement to report under GASB 67, owing to the system not currently receiving the full actuarial required contribution, a different rate of return. For KTRS relative to this rate, which takes into account an eventuality where there are no assets to use to create investment returns, is a blending of the 7.5 percent return with a municipal bond index rate of 3.82 percent. The result is a rate of 4.88 percent. For the medical insurance fund, the assumed rate of return is 8.0 percent.

The amortization period is based on a level percentage of pay, as opposed to a fixed dollar amount, resulting in an increase as payroll increases. Chairman Yonts asked if, because of amortizing over 30 years, they were using a 20-year period going forward. Mr. Barnes answered that the legacy unfunded liability is projected to be paid off in 30 years which began on June 30, 2014. New liabilities, either losses or gains, accrued after that date, will be amortized using a 20-year amortization. Chairman Yonts asked how the difference between a 30-year and a 20-year amortization affected the contribution requirements. Mr. Barnes stated that there would be a smaller portion of the contribution going toward the 20-year amortization and a larger portion would go toward the larger legacy unfunded liability. This was part of the funding policy became effective in the 2013-14 fiscal year. Before that, there was an open amortization which renewed every year. The goal is to be fully funded within the 30 years, with less than 29 years remaining.

Mr. Barnes focused on the funded status of the medical insurance and pension funds. From 2014 to 2015, liabilities increased by $916 million. However, with an actuarial smoothed asset value, the actuarial value of assets increased from $16,174,000,000 to $17,200,000,000. Additionally, the funded ratio increased from 53.6 percent to 55.3 percent. This increase is largely due to the actuarial method of smoothing and having some good years where returns were high, for example in 2014 there was a return of 18.1 percent which cannot be expected going forward. Negative cash flow is also making it difficult to maintain an adequate funding level for investments. The funded status of the pension fund was described using two different measures, the first a traditional funding measure and the second was the GASB 67 measure described earlier which uses the 4.88 percent rate of return. Using the second measure, the liabilities increase from $39,685,000,000 to $42,477,000,000. The net asset position also declined from $18,093,000,000 to $18,049,000,000 over the year. Chairman Yonts asked how the GASB implication affect the request being made to the legislature for funding. Mr. Barnes answered that they use the traditional measure, not the

GASB 67 measure, to determine the needs of the system and therefore the request for funding. Senator Bowen emphasized that that was an important distinction to make.

The unfunded liability increased from $21,592,000,000 to $24,428,000,000 and the funded ratio declined from 45.95 percent to 42.49 percent according to the GASB 67 accounting measure. Mr. Barnes stated that the driving factor in these figures was the assumed rate of return being only 4.88. The blended rate consists of both the assumed rate of return and the municipal bond index rate which declined significantly since 2014. When highlighting the medical insurance funding, there was significant improvement as a result of legislation in 2010 which preserved health insurance for teachers. Liabilities did increase over the last year from $3,195,000,000 to $3,526,000,000. This was attributed to the fact that baby boomers are starting to retire. Smoothing is used on this fund, however, GASB 67 does not apply to medical funds. Mr. Barnes did emphasize that the fund is fully funded and the value of the assets has increased from $509 million to $639 million. While the unfunded liability did increase from $2,686,000,000 to $2,888,000,000, the overall funded ratio improved from 15.93 percent to 18.09 percent. Most important was the fact that this was possible with the existing contribution rates from teachers and school districts just phasing in from July 1, 2015.

Chairman Yonts referenced the fact that baby boomer teachers are beginning to be eligible to retire, and that potentially 15,000 teachers could retire en masse. He asked what the impact of that would be on the system. Mr. Barnes answered that it would have a significant negative impact on the system, however, it is more likely that they will slowly retire over the next 5-6 years. Mr. Barnes then turned to the budget request being made by KTRS, which had already been presented to the Governor's office. For fiscal year 2017, the state portion of the shared responsibility contribution for retiree health to cover new retirees beginning on or after July 1, 2010 who are under age 65, was $71,300,000. Before that legislation went into effect, the Commonwealth attempted to cover all of the costs. The system now receives a contribution from teachers equal to the Medicare Part B premium. For this year, that was $104 per month which each retiree pays into the medical insurance fund. Because teachers do not participate in Social Security, and are required to make up the nations' shortfall in Medicare payments, their contribution will increase to $121 per month next year. This will have the combined impact of saving the state money and contributing more to the medical insurance fund. For the 2018 fiscal year, the request will be $78,800,000 to cover more retirees retiring in that time frame.

Mr. Barnes drew members' attention to the additional funding request of $544,985,400 being made by KTRS to have the pension fund funded on an actuarially sound basis. This is what the budget has been unable to support over time. In the second fiscal year of the upcoming biennium budget, there would be an additional request of $512,883,000. Senator Bowen asked if this was a general fund appropriation apart from any other contributions. Mr. Barnes answered yes. Senator Bowen asked if it had been considered to fund that portion statutorily in order to capture federal dollars at the district level. Mr. Barnes answered that it had not been calculated in that way, but it was his belief that approximately 10-15 percent could be represented with federal funds. Mr. Barnes concluded by stating the "all-in" figure, which included the state portion of shared responsibility, special appropriation for sick leave, COLAs, etc., and additional funding to make the pension actuarially sound. This figure was $730,622,900 for fiscal year 2017, and $710,699,100 for fiscal year 2018. In addition, a separate request from the Kentucky Department of Education, the statutory contribution for the SEEK formula was covered. That was $396,592,900 for 2017 and $405,432,100 for 2018.

Chairman Yonts asked if the $24,613,400 figure shown in the handout represented the budget shortfall. Mr. Barnes answered that yes, and it is a result of a deficit in the payroll projection. In past years the legislature has been very good at keeping up with that overage or underage. Chairman Yonts asked if that figure had been included in the additional funding request. Mr. Barnes said that it had been incorporated into the $544, 985,400 figure. Senator Bowen asked again for the total combined request. Mr. Barnes stated them to be $1.127 billion for 2017 and $1.116 billion for 2018. Representative Graham returned to the number of teachers who could potentially retire in soon. He asked if KTRS had considered that major changes to the system might prompt them to retire earlier than anticipated and if there was a plan for that eventuality. Mr. Barnes stated that they had not calculated that and it would significantly impact the numbers presented. He also said that discussions with the workgroup and others has emphasized the need to prevent the spread of misinformation and rash decision making based on bad press. Senator Bowen asked if there had been a large number of retirements as a result of the last change which changed eligibility from 30 years to 27 years. Mr. Barnes answered that some teachers took advantage of that and contributions were increased to help offset that, but it resulted in an overall negative actuarial impact on the system. That has since been offset with other measures, most notably the 2002 legislation which changed provisions regarding returning to work after retirement. He closed his presentation with the total contributions made for fiscal year 2015 of $867,739,053. Investment income was $907,703,719 and gross investment income was nearly $1 billion. Deductions totaled $1,773,357,690.

Mr. Barnes commented on the KTRS Funding Workgroup which was comprised of 25 members representing the General Assembly, appointed and elected public officials, K-12 educators, and various other groups such as Kentucky Chamber of Commerce. The group heard from experts such as Morgan Stanley Financial Services and an advisor hired by the group. Their last meeting was on December 1, 2015 where the group issued a report, included in member packets and available online. The report did not contain a consensus recommendation regarding the retirement system, however, it did make progress understanding the issues and the possible options are to address them. Mr. Barnes stated that the workgroup facilitated an excellent discussion which will be a foundation for later work.

Judicial Form Retirement System Actuarial Valuation/Financial Statements

Ms. Donna Early, Executive Director, Judicial Form Retirement System (JFRS) and Judge Larry VanMeter, Chairman, JFRS Investment Committee were present to speak regarding the JFRS actuarial valuation and financial statements. Ms. Early directed members' attention to a handout provided in member packets. She stated that the actuarial formula for determining annual state funding appropriations to JFRS are prescribed in statute. The JFRS Board of Trustees sets the assumptions used by the actuaries and the key assumptions were also listed in the handout. The defined benefit and the hybrid cash balance plans are kept separate and the funds are not commingled. They are treated as two separate "tiers" much the same as the many tiers of KRS.

Regarding the results of the actuarial evaluation, the Legislators Retirement Plan (LRP) is 71.4 percent funded and the Judicial Retirement Plan (JRP) is 67.2 percent funded. Those figures are strictly in reference to the defined benefit plan. The hybrid cash balance plan only started in 2014 so assets for LRP Hybrid Cash Balance only total approximately $22,000 and $85,000 for JRP Hybrid Cash Balance. These are insufficient for meaningful results. The actuarial data is predominately used to inform the JFRS budget request, with separate requests made for the LRP and JRP. The LRP request is a part of the legislative budget bill, where the JRP request is part of the judicial budget bill. Ms. Early noted that the most relevant number was the total request for each year of the biennium, that being $2.4 million for the LRP and $13.2 million for the JRP. This represents a percentage of payroll of 49.11 percent for LRP and 41.25 percent for JRP. Ms. Early then said that full actuarial data had been provided to staff, but a complete copy could be distributed to members at their request.

The audit of JFRS was issued by an independent company, Blue and Company, on December 10, 2015. It was also distributed to staff and can also be provided to members at their request. The report was clean with no recommendations or discrepancies. The most relevant item was that the net pension liability for both funds decreased from 2014 to 2015. For the LRP the decrease was by $8 million and for the JRP the decrease was $16 million. Senator Bowen asked how JFRS calculated interest for benefits, compared to the 5-year retrospective approach taken by KRS. Ms. Early said that the hybrid cash balance plan is very small at this time, accounting for only 16 judges and 11 legislators. When the Board of Trustees looked at the provisions of Senate Bill 2 of the 2013 Regular Session, and met with outside counsel, they took the position that looking at a cumulative 5-years forward for the purposes of geometric average would be the most helpful. That will better allow the funds to grow and currently only one individual qualifies for interest because the funds are so new. Judge VanMeter commented that at this time, the hybrid cash balance plan is being tracked separately because it is easier to track than if it were commingled. It is always possible to combine them at a later date, but it would be very difficult to separate once they are combined. This allows for better understanding of the trends for the two different styles.

Senator Higdon asked, looking at the funding request, why it was so high if the funds are doing well. Ms. Early answered that the number is constantly changing and this reflects a recent decrease. This amount is what is currently necessary to maintain the current funding level. Judge VanMeter further explained that the funding request has decreased since the last request was made. Ms. Early said that when the JFRS reaches a strongly funded status, it is possible to reduce the request to nothing.

Ms. Early stated that in reference to last month's questions about a website, she is in the process of learning how to create one. She has a contract established with Kentucky Interactive to build a shell for the website. She will then go to training starting on December 19, 2015 to learn how to fill the content of the website. The whole site should go live in a couple of months. Ms. Early said she would welcome comments and requests regarding the information to share.

Discussion of Recommendations for the Annual Report

Chairman Yonts began discussion of a series of recommendations proposed by members of the board regarding public pensions. Some of the recommendations were administrative in nature while a majority were legislative. The first was an administrative recommendation by Chairman Yonts that KRS, KTRS, and JFRS should report investment returns on a net of fees basis on all public documents produced. Senator Bowen moved to approve the recommendation, seconded by Mr. Jefferson. The motion passed by voice vote.

The second recommendation was also administrative by Chairman Yonts that the KRS Board of Trustees shall, by January 25, 2015, provide no more than 3 options for addressing the cash flow issues facing the KERS Non-Hazardous pension fund. The options shall be detailed with specific research performed for each option which shall include specific savings/costs for each option identified. Senator Bowen moved to approve the recommendation, seconded by Senator Higdon. The motion passed by voice vote.

The third was an administrative recommendation by Chairman Yonts that KRS, KTRS, and JFRS shall study and report to the Public Pension Oversight Board by January 25, 2016 on the fees paid directly or indirectly by each system (i.e. through incentive or partnership agreements) and shall provide a consensus recommended standard for investment fee reporting to be utilized by all systems. Representative Linder asked if this recommendation was going to be codified in legislation, because that would be difficult to accomplish by January 25, 2016. Chairman Yonts stated that this was an administrative recommendation, no a legislative measure at this time. Mr. Jefferson moved to approve the recommendation, seconded by Ms. Mattingly. The motion passed by voice vote.

The fourth was administrative and legislative proposed by Chairman Yonts that the KRS Board of Trustees shall by January 25, 2016, study issues related to agency participation, including but not limited to KRS participating agencies who are utilizing contact employees or who are not offering employees to participate in the systems, and shall provide a listing of all agencies who are attempting various means to avoid paying contributions on employees along with the estimated number of employees not being reported as well as the anticipated impact to the systems. Based upon this information, the General Assembly should enact legislation to address the loss of employer contributions from KRS participating agencies who are utilizing contract employees or who are not offering employees the opportunity to participate in the systems. Mr. Jefferson moved to approve the recommendation. Ms. Stemler seconded the motion. The motion passed by voice vote.

The fifth was administrative and legislative proposed by Chairman Yonts that the JFRS should develop a website to provide greater access to information to their members and the public. Legislation to require specific information to be posted on the JFRS website similar to what is currently required for the KRS and KTRS websites under KRS 61.645(19) and KRS 161.250(4) should also be enacted. Ms. Stemler made a motion to approve the recommendation, seconded by Mr. Jefferson. The motion passed by voice vote.

The sixth was a recommendation for legislation from Senator Bowen that should be enacted to make KRS and KTRS subject to KRS Chapter 45 (Budget and Financial Administration) and 45A (Kentucky Model Procurement Code). Senator Bowen directed members' attention to a letter he submitted for member packets that further explained his recommendations. Senator Higdon made a motion to approve, seconded by Representative Linder. The motion passed by voice vote.

The seventh was a legislative recommendation from Senator Bowen that legislation should be enacted to require Senate confirmation of the KRS and KTRS Executive Director/Executive Secretary and all non-elected board members. Representative Graham asked about the legislation passed in previous sessions regarding gubernatorial appointment to replace previously self-elected board members. He suggested including language that if an elected board member vacates the seat that the organization be allowed to select the board member, not be appointed by the Governor. Chairman Yonts recommended that Representative Graham work with Senator Bowen to address that when drafting the legislation. Senator Higdon made a motion to approve. Representative Linder seconded and the motion passed by voice vote.

The eighth, ninth, and tenth recommendations were all legislative and were combined into a single motion as they all addressed the same issue. The recommendations were by Senator Bowen, Mr. Jefferson, and Chairman Yonts that legislation should be enacted to require two of the gubernatorial appointees be a chartered financial analyst (CFA) and ask the CFA Society of Louisville to submit a list of potential applicants. It was also required that the individuals serve on the KRS investment committee. Senator Bowen made a motion to approve the combined recommendation, seconded by Mr. Jefferson. The motion passed by voice vote.

The eleventh recommendation was by Senator Bowen that the General Assembly should enact legislation to add additional gubernatorial appointed members to the KTRS Board of Trustees, and some or all of the additional members should have investment experience. Senator Higdon made a motion to approve the recommendation. Ms. Stemler seconded and the motion passed by voice vote.

The twelfth, thirteenth, and fourteenth recommendations were again taken as a single item as they were all similar in subject matter. The recommendations were proposed by Chairman Yonts and addressed the KRS, KTRS, and JFRS housekeeping bills. Members were directed to view the legislation on the LRC website. Senator Bowen made a motion to approve the recommendation, seconded by Ms. Mattingly. The motion passed by voice vote.

The fifteenth recommendation was from Chairman Yonts regarding legislation similar to the 'pension spiking' measures of Senate Floor Amendment 2 of House Bill 306 of the 2015 Regular Session. This measure would have added future 'pension spiking' charges as a surcharge to the employer contribution rate in each system instead of billing individual employers. Chairman Yonts made the motion to approve the recommendation, seconded by Ms. Stemler. Senator Higdon asked to record a pass vote. The motion passed by voice vote.

The sixteenth recommendation was made by Chairman Yonts to enact measures to require KRS, KTRS, and JFRS to establish placement agent disclosure policies similar to the measures included in Senate Bill 22 of the 2015 Regular Session which did not pass. A copy of that legislation could be viewed on the LRC website. Senator Bowen made a motion to approve the recommendation, seconded by Mr. Jefferson. The motion passed by voice vote.

The seventeenth recommendation was made by Senator Higdon that the General Assembly should require and provide funding for a performance audit of KRS conducted by the State Auditor to evaluate administrative expenses, investment fees and expenses, staffing levels, and overall administration of the funds. The performance audit should provide recommendations for any means of reducing administrative and investment related expenses for KRS. Senator Bowen made a motion to approve the recommendation. Senator Higdon seconded and the motion passed by voice vote.

The eighteenth recommendation was made by Chairman Yonts that legislation similar to House Bill 306 of the 2015 Regular Session relative to actuarial and financial reporting requirements for KRS, KTRS, and JFRS be enacted. Mr. Jefferson made a motion to approve, seconded by Senator Higdon. The motion passed by voice vote.

The nineteenth recommendation was made by Chairman Yonts that legislation should be enacted to: (1) require that an actuarial audit be completed for KRS, KTRS, and JFRS at least once every ten years by an actuary retained by the Public Pension Oversight Board and paid for by the systems to evaluate the reliability of the actuarial assumptions and methods; (2) require that the employer contribution rates be reviewed by December 31st in the year prior to each budget biennium by an actuary retained by the Public Pension Oversight Board that is paid for by the systems; and (3) require actuarial valuations for KRS, KTRS, and JFRS be completed and submitted no later than November 1st following the close of the fiscal year. Chairman Yonts amended his recommendation to change November 1st to November 20th after discussions with KERS staff. Senator Bowen asked if ten years is a standard interval because it seemed too infrequent. Chairman Yonts answered that he believed that was standard, but there are sometimes more frequent audits performed and sometimes less frequent. This would codify the ten year minimum. Mr. Jefferson stated that they should occur no greater than ten years apart, with an option for greater frequency. Senator Bowen made a motion to approve, seconded by Mr. Jefferson. The motion passed by voice vote.

The twentieth recommendation was made by Chairman Yonts that legislation to address paid volunteer issues with KRS similar to House Bill 488 of the 2015 Regular Session and prefiled in Bill Request 33 of the 2016 Regular Session be enacted. Senator Higdon made a motion to approve, seconded by Senator Bowen. The motion passed by voice vote.

The twenty-first recommendation was made by Chairman Yonts that the Governor and the General Assembly should include in the 2016-2018 biennial budget, the employer contribution rates recommended by the KRS Board of Trustees, for KERS and SPRS, based upon the 6.75 percent investment return assumption adopted for the KERS Non-Hazardous and SPRS pension funds. Ms. Stemler made a motion to approve the recommendation. Senator Bowen seconded and the motion passed by voice vote.

The twenty-second recommendation was made by Chairman Yonts that the General Assembly should evaluate the KTRS Funding Work Group findings and recommendations and adopt a financially sound approach to address the funding issues facing the KTRS pension fund. Senator Bowen made a motion to approve the recommendation, seconded by Ms. Stemler. The motion passed by voice vote.

The twenty-third and final recommendation was made by Chairman Yonts that the Public Pension Oversight Board supports the measures that would provide additional funding to improve the financial health of the state-administered retirement systems and in particular measures that would improve the cash flow issues facing the KERS Non-Hazardous pension fund or that would improve overall funding of the KTRS pension fund and the SPRS pension fund. Mr. Jefferson made a motion to approve, seconded by Senator Bowen. The motion passed by voice vote.

Senator Bowen then made a motion that the approved recommendations be included in the committee's 2015 report to LRC and that staff include a summary of KRS, KTRS, and JFRS benefits and investment data as well as summary of testimony given to the Public Pension Oversight Board. Members of the board should be given opportunity to review the report prior to its publication. Ms. Mattingly seconded the motion. Ms. Stemler recommended the final three recommendations be listed first to give added emphasis. The motion passed by voice vote.

Representative Simpson spoke to express his appreciation for the emphasis the Public Pension Oversight Board places on the issues facing the state-administered pension systems. He said he would like to see expanded legislative membership on the board to provide greater breadth of knowledge to the entire General Assembly. Chairman Yonts and Senator Bowen both concurred with that sentiment and said they would look into that further in the coming year.

There being no further business to come before the board the meeting adjourned at 2:30 p.m. The next meeting of the Public Pension Oversight Board will be January 25, 2016 at 12:00 p.m. in Annex Room 169.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

January 12, 2016

Call to Order and Roll Call

The 1st meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Tuesday, January 12, 2016, upon adjournment of both Chambers 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 Paul Hornback, Dennis Parrett; Representatives Mike Denham, Tom McKee, Terry Mills, and Jonathan Shell.

Guests: Representative James Tipton; Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy and Luther Hughes, Project Manager, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley, Kelly Ludwig, Sara Saxson-Lyle, Marielle Manning and Susan Spoonamore, Committee Assistant.

Upon motion made by Senator Parrett and seconded by Senator Embry, the December 2, 2015 minutes were approved, upon voice vote and without objection.

Governor's Office of Agricultural Policy

Mr. Bill McCloskey, Director of Financial Services, and Mr. Luther Hughes, Project Manager, Governor's Office of Agricultural Policy, presented the projects receiving Agricultural Development Board approval at the December 2015 meeting. Those included County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, and Shared-use programs, and major statewide or regional projects.

The GOAP representatives responded to committee members' questions about the Deceased Farm Animal and Shared-use funding commitments.

The committee received reports on two regional projects – Woodford County Fair Association, approved by the board for $40,000 in Woodford County tobacco settlement funds to build and equip a livestock and agricultural pavilion at the Woodford County fairgrounds, and the Marion Tourism Commission, approved for $5,000 in state tobacco settlement funds to build a farmers' market facility.

The GOAP officials responded to committee members' questions about the Woodford County project, such as the type of pavilion planned and the scope of local input.

They provided additional details on the Marion project, primarily the funding arrangement.

Responding to Representative McKee, the GOAP officials discussed the growth throughout the state of farmers' markets. According to Mr. McCloskey, the board has been receptive to farmers' market funding applications.

The GOAP representatives described one funding denial, Bracken County Conservation District, turned down for $10,000 in tobacco funds to help finance a local garbage disposal program. Hay wraps were mentioned as being problematic trash items. Representative Denham expressed his concerns about the denial, pointing out the county has no regular trash pickup and that hay wraps are a nuisance.

It was mentioned in the discussion that a board review committee recommended denial due to lack of agricultural impact and interests. Mr. McCloskey said the county had received tobacco settlement funds in the past, particularly for a biomass study.

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

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

December 15, 2015

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, December 15, 2015, at 1:00 p.m., in Room 169 of the Capitol Annex. Representative Linda Belcher, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Linda Belcher, Co-Chair; Senators Julian M. Carroll and Christian McDaniel; Representatives Will Coursey and Steven Rudy.

Guests: John Hicks, Deputy State Budget Director; Brandi Norton, Financial Analyst, Kentucky Infrastructure Authority, and Adam Scott, Staff Assistant, Kentucky Infrastructure Authority.

LRC Staff: Josh Nacey, Committee Staff Administrator; Katherine Halloran, Committee Analyst; and Maurya Allen, Committee Assistant.

Approval of Minutes

Representative Coursey moved to approve the minutes of the November 17, 2015 meeting. The motion was seconded by Senator McDaniel and approved by voice vote.

Correspondence Items

Mr. Nacey said that following discussion at the previous meeting, letters were sent from the committee to state-supported postsecondary education institutions regarding scope increases. A sample of that letter was in each members' packet for their information. There was no other correspondence to or from the committee.

Project Reports from Universities

Mr. Nacey said that there was only one university project reported to the committee. The University of Kentucky reported the purchase of an item of unbudgeted medical equipment, a GE Digital Mobile C-Arm for Good Samaritan Hospital. The device will help patients by reducing exposure to and providing better reports on radiation dosage. The system will replace the current equipment which was purchased in 1995 and is supported by older technology. The cost for the purchase was $209,903 and was paid in cash with restricted funds. No action was required on this item.

Project Reports from the Finance and Administration Cabinet

Mr. John Hicks, Deputy State Budget Director, was present to report on five projects for the Finance and Administration Cabinet. The first was an appropriation increase of 15 percent requested by the Kentucky State Fair Board for the Kentucky International Convention Center Renovation and Expansion. The project was authorized in House Bill 235 of the 2014 Regular Session for $180 million in agency bond funds and other funds. After design work had begun, it was discovered that the preliminary cost estimates were too low. The Cabinet, the Fair Board, and the Convention Bureau worked closely with the architect and engineering consultants to change, eliminate, and reduce various elements of the project's design without impacting the most important of the intended improvements. The requested increase of $27 million will be financed with bond proceeds from the Louisville and Jefferson County Visitors and Convention Bureau. The new total appropriation will be $207 million.

Senator McDaniel commented that he would like a more in-depth look at the interaction between the Kentucky State Fair Board and the Yum! Center, specifically into the impact on revenues and financing. With no further questions, Senator McDaniel moved to approve the project. Senator Carroll seconded and the motion passed by a roll call vote of 6 yeas, 0 nays.

The second item was an appropriation increase for the Transportation Cabinet for the Construct C-1 Garage project. The project was authorized in House Bill 236 of the 2014 Regular Session for $5 million in agency bond funds. The Transportation Cabinet requested a 9 percent appropriation increase ($450,900) from unbudgeted restricted funds for a total appropriation of $5,450,900. The request was being made because the bids for the project were higher than estimated. Senator McDaniel asked what the precise fund source for the project was. Mr. Hicks answered that the equipment replacement fund was being used because the garage was used for the storage of trucks and related equipment.

Senator McDaniel asked if these were the salt trucks and plows, and if so, would using this money impact the ability of the state to upgrade or repair the existing fleet of trucks. Mr. Hicks answered that yes, the trucks in question were salt trucks and plows. He explained that the Transportation Cabinet and the Finance and Administration Cabinet had worked closely to keep the scope as close to bid prices as possible without impacting the functionality of the facility, but whenever funds were used there was an opportunity cost. Senator McDaniel asked what the total funds were in the account. Mr. Hicks said he did not know, but would find out and report back to the committee. Senator Carroll made a motion to approve the project, seconded by Representative Rudy. The motion passed by a roll call vote of 5 yeas, 1 nay.

The third item was a new project for the Tourism, Arts and Heritage Cabinet, Kentucky Center for the Arts. The Center was requesting approval for the Chiller Replacement project, an unbudgeted capital project to replace existing chillers at the facility. The project appropriation was $2,507,500 and would be completely funded by a grant from the Louisville/Jefferson County Metro Government. Senator McDaniel moved to approve the project, seconded by Senator Carroll. The motion passed by a roll call vote of 6 yeas, 0 nays.

The fourth item was an appropriation increase of $900,000 for Kentucky State University's Enterprise Resource Planning Information Technology System. The increase will be funded with $705,000 in federal funds and $195,000 in restricted funds. The total appropriation will be $3.5 million. The overall project is aimed at organizing and automating Kentucky State University's business processes to improve planning, financial accountability, and student services. The university plans to begin implementing the project this month and to complete its implementation by November 2016. The increase is necessary to cover the costs associated with system cutover training of Kentucky State University staff, to provide initial post-implementation technical support, to complete data transfer from the old mainframe system, and to add the integration of systems used by Housing and Admissions into the new system. Senator Carroll made a motion to approve the project. Senator McDaniel seconded the motion. The motion passed by a roll call vote of 6 yeas, 0 nays.

The final item was a new project, the Renovation of the Grauman Building, for the Cabinet for Health and Family Services, Department of Income Support. The renovation of this building, which is located on the grounds of the Central State Hospital, will enable staff to be relocated from leased space to state-owned space. The Department's current location is in the Chestnut Centre in Louisville. The Chestnut Centre building is 100 years old and has experienced numerous safety and health problems such as flooded rooms, falling ceilings, and reports of breathing difficulties. The project appropriation is $2,150,000 and will be funded by $2,068,000 in federal funds from the Social Security Administration and $82,000 from the Cabinet for Health and Family Services 2014-2016 Maintenance Pool. Senator Carroll made a motion to approve the project, seconded by Senator McDaniel. The motion passed by a roll call vote of 6 yeas, 0 nays.

Kentucky Infrastructure Authority

Ms. Brandi Norton, Financial Analyst, Kentucky Infrastructure Authority, and Mr. Adam Scott, Staff Assistant, Kentucky Infrastructure Authority were present to report six items. The first was a Fund A loan for the Southern Water and Sewer District in Floyd County. The request was for $235,000 for the Harold Sewer – Phase III project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $8,950. Senator Carroll made a motion to approve the loan, seconded by Representative Coursey. The motion passed by a roll call vote of 6 yeas, 0 nays.

The second item was a Fund A loan for the City of Harrodsburg in Mercer County. The request was for $1,566,370 for the Sewer Rehabilitation 2015 project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $68,440. Senator McDaniel made a motion to approve the loan. Representative Coursey seconded, and the motion passed by a roll call vote of 6 yeas, 0 nays.

The third item was a Fund A loan for the City of Morehead for the benefit of the Morehead Utility Plant Board in Rowan County. The request was for $1,300,000 for the Sunnybrook Sewer Line Extension project. The project entails the installation of about 12,000 linear feet of 8-inch PVC lines, lift station, and 45 manholes to provide sewer service for 100 unserved households. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $72,718. Senator McDaniel stated that the pricing appeared to be low for the risk on the debt repayment. Ms. Norton answered that the conditions were standard assuming the debt coverage ratio declines to 1.0 in 2019 as anticipated. Mr. Scott added that it is not the policy of Kentucky Infrastructure Authority to make risk projections when pricing the loans. Senator McDaniel asked if this was by statute. Mr. Scott answered that it was. Representative Coursey made a motion to approve the loan, seconded by Senator Carroll. The motion passed by a roll call vote of 6 yeas, 0 nays.

The fourth item was a Fund A loan also for the City of Morehead for the benefit of the Morehead Utility Plant Board. The request was for $1,800,000 for the KY-801 and KY-158 project within the City of Sharkey. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $100,687. Senator Carroll made a motion to approve the loan. Representative Coursey seconded the motion. The motion passed by a roll call vote of 6 yeas, 0 nays.

The fifth item was a Fund B loan for the Perry County Fiscal Court in Perry County. The request was for $350,000 for the Vicco Water System Emergency Repair Project. Perry County Fiscal Court recently acquired the Vicco Water & Wastewater System from the City of Vicco. The system is currently being operated by Utility Management Group under an emergency contract. This project aims to eliminate several problems in the water system to include installation of two new pump stations, several water meters, as well as the replacement of the telemetry at the Acup Tank, and the replacement of approximately 3,385 linear feet of exposed service line and a chlorine tester kit.

Chairman Belcher asked what expenses were expected to amount to $158,000 listed as "other" in the project costs. Mr. Scott answered that the City of Vicco had been purchasing approximately 81 million gallons of water annually from Knott County Water and Sewer District. The city was unable to continue to make payments for the amount of water being purchased and when the Perry County Fiscal Court took over the Vicco Water System, they also assumed the debts for that water purchase. A portion of the Fund B loan money will go towards debt owed to Knott County Water and Sewer District in the amount of $158,000. Representative Rudy made a motion to approve the loan, seconded by Senator Carroll. The motion passed by a roll call vote of 6 yeas, 0 nays.

The sixth and final item was a Fund F loan increase for Monroe County Water District in Monroe County. The Monroe County Water District was requesting an additional increase of $3,550,694 to a previously approved $12,013,638 Fund F loan for the Regional Water Treatment Plant and System Improvements project. The project was competitively bid in three contracts. The lowest bid exceeded the engineer's estimate by $3,865,694. The loan will have a 30-year term, a hardship interest rate of 0.75 percent, and an annual debt service payment of $503,701.

Senator McDaniel asked why the costs for this project had increased by such a large amount over the course of only eleven months. Mr. Scott answered that the project had been underway for eight years and during that time several issues had come to light. The most unexpected was that the proposed location for the project was found to be a Native American burial ground and required a large sum to resolve those issues. Additionally, initial cost estimates were very low and later project scope was expanded to incorporate the future possibility of assuming responsibility for the City of Tompkinsville. Kentucky Infrastructure Authority had negotiated with Monroe County Water District following the most recent increase request and achieved a reduction of $500,000, but some increase was still necessary. Senator Carroll made a motion to approve the project. Representative Rudy seconded, and the motion passed by a roll call vote of 5 yeas, 1 nay.

New School Bond Issues with School Facilities Construction Commission Debt Service Participation

Mr. Nacey reported six school bond issues with School Facilities Construction Commission debt service participation with a total par amount of $69,425,000. The state portion of the annual debt service payment was $427,942 and the local contribution was $1,612,948. One issue will refinance previous school construction and the other five will finance new school improvements, energy conservation measures, or new construction. The issues for Fleming County, Perry County, and Pike County involve an urgent need portion for a total of $2,954,610 and these districts were required to levy a five cent equivalent tax in order to qualify for project funding under House Bill 235 of the 2014 Regular Session. Representative Rudy made a motion to approve the bond issues, seconded by Senator Carroll. The motion passed by a roll call vote of 6 yeas, 0 nays.

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

With there being no further business, the meeting was adjourned at 1:30 p.m. The next meeting of the committee will be January 19, 2016 at 1:00 p.m. in Capitol Annex Room 169.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

January 12, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, January 12, 2016, at 3:00 PM, 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 and Paul Hornback; Representatives Brad Montell and Brent Yonts.

Guests: Bill Harris, William Thro, Jenny Lafferty, Connie Payne, Stephanie Craycraft, Adam Trosberg, Terri Tolan, Joe Roberts, Charlie Harman, and Tammy Lambert.

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

A motion was made by Senator Raque Adams to approve Minutes of the December 2015, meeting of the committee. Representative Yonts 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 Montell 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 Montell 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 Montell 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 Montell seconded the motion, which passed without objection.

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt Tarrant and Combs, LLP, 1600001029; Transitions, Inc., 1600001043; Kentucky River Community Care, Inc., 1600001047.

CORRECTIONS, DEPARTMENT OF:

Noa Counseling, LLC, 1600000780; Noa Counseling, LLC, 1600000840.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Theraplace Learning Center, 1600000563; Labcorp, 1600000939.

DEPARTMENT FOR INCOME SUPPORT:

Visions Group 2020, LLC, 1600000818.

EASTERN KENTUCKY UNIVERSITY:

Gess, Mattingly & Atchison, P.S.C., 16-168.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

CMTA, Inc. Consulting Engineering, 1600000812; CMTA, Inc. Consulting Engineering, 1600000828; Murphy + Graves + Trimble, PLLC, 1600000873; American Engineers, Inc., 1600000922.

KENTUCKY COMMUNICATIONS NETWORK AUTHORITY:

Baller Herbst Stokes & Lide, PLLC, 1600000945.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Weltman, Weinberg & Reis Co., L.P.A., 16-001.

KY RACING COMMISSION:

LGC Science, Inc., 1600000705.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Adtec Administrative and Technical Consulting, 1600000919.

MILITARY AFFAIRS, DEPARTMENT OF:

Jason Spayd, 1600001035.

MURRAY STATE UNIVERSITY:

AT&T, 009-16; RUBINBROWN, LLP, 011-16.

PUBLIC ADVOCACY, DEPARTMENT FOR:

Rebecca Ballard Diloreto, 1600000967.

STATE POLICE, DEPARTMENT OF:

Phillip A. Clark II, 1600001067.

TRANSPORTATION CABINET:

Tooms & Dunaway, PLLC, 1600000869; Tooms & Dunaway, PLLC, 1600000870; Palmer Engineering, 1600000931; HDR Engineering, Inc., 1600000936; CDP Engineers, Inc., 1600000982; Arnold Consulting Engineering, 1600000984; Parsons Brinckerhoff, Inc., 1600000993; Stantec Consulting Services, Inc., 1600001019.

UNIVERSITY OF KENTUCKY:

JRA Architects, A161120; Helbing & Associates, Inc., K16-175.

WORKFORCE INVESTMENT, OFFICE OF:

Blue & County, LLC, 1600000792

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Adams Stepner Woltermann and Dusing, PLLC, 1500000407.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Crown Services, Inc., 1500001707; Guardian Angel Staffing Agency, 1500001708; Guardian Healthcare Providers, 1500001709; Nursestaffing Group Kentucky, LLC, 1500001710.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Public Consulting Group, 1500000572.

DEPARTMENT FOR PUBLIC HEALTH:

University of Louisville Hospital, 1400001072-1; Laboratory Corporation of America Holdings, 1400002071.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

URS Corporation, 1100002668; Schnabel Dam Engineering, Inc., 1200002448; Third Rock Consultants, LLC, 1200003126; Murphy & Graves & Trimble, PLLC, 1500001840; Stantec Consulting Services, Inc., 1500002859; Omni Architects, C-05256615.

GOVERNORS OFFICE FOR TECHNOLOGY:

Columbia Telecommunications Corporation, 1500002155.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:

Mountjoy Chilton Medley, LLP, 1400003684.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Lake Cumberland CDL Training School Incorporated, 590.

MILITARY AFFAIRS, DEPARTMENT OF:

Baptist Health Madisonville, Inc., 1600000558.

MOREHEAD STATE UNIVERSITY:

Provations Group, 16-006; Corbin Design, Inc., 16-008.

OFFICE OF HOMELAND SECURITY:

Goldberg Simpson, LLC, 1600000215.

REAL ESTATE APPRAISERS BOARD:

Dennis Badger and Associates, Inc., 1400001317.

REAL ESTATE COMMISSION:

PSI Services, LLC, 1400003234.

TRANSPORTATION CABINET:

T H E Engineers, Inc., 0600001480; HDR Engineering, Inc., 1000003299; H. C. Nutting Company, 1000003823; Burgess & Niple, Inc., 1100000206; HDR Engineering, Inc., 1200000534; Vaughn & Melton Consulting Engineers, Inc., 1200000653; Strand Associates, Inc., 1200001779; J M Crawford and Associates, Inc., 1300001569; Palmer Engineering County, 1300001866; American Engineers, Inc., 1300002003; Gresham Smith & Partners, 1300002683; QK4, Inc., 1400000074; HDR Engineering, Inc., 1400000573; E A Partners, PLC, 1400000965; EA Partners PLC, 1400001234; QK4, Inc., 1400001663; Tooms & Dunaway PLLC, 1400002081; Tooms & Dunaway PLLC, 1400003006; Lynn Imaging, 1500000264; Palmer Engineering, 1500001283; QK4, 1500001396; Palmer Engineering, 1500001696; Integrated Engineering, 1500002236; Stantec Consulting Services, Inc., 1500002598; Gresham Smith and Partners, C-05260813.

UNIVERSITY OF KENTUCKY:

Omni Architects, A131080; Smith Management Group, K15-139; Danny Corales, MD, K16-110.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Pennyroyal Mental Health, 1600001044; Morehead State University, 1600001048.

AGRICULTURE, DEPARTMENT OF:

Multi, 1600000871.

EDUCATION, DEPARTMENT OF:

Department for Medicaid Services, 1600000823; Franklin County Board of Education, 1600001032.

ENERGY AND ENVIRONMENT CABINET, OFFICE OF THE SECRETARY:

Eastern Kentucky Pride, 1600000978.

MILITARY AFFAIRS, DEPARTMENT OF:

City of Paris, 1600000867.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Perry County Fiscal Court, 1600000839; City of Frankfort, 1600000913; Bell County Fiscal Court, 1600000948; Ohio County Fiscal Court, 1600000951; City of Highland Heights, 1600000953; City of Newport, 1600000954; Mercer County Fiscal Court (Pa), 1600000955; City of New Haven, 1600000956; USDA Forest Service, 1600000969; Knott County, 1600000986; City of Pikeville, 1600000990; University of Louisville Research Foundation, 1600000995; University of Kentucky Research Foundation, 1600001003; The Healing Place, Inc., 1600001004; City of Hazard, 1600001024; Perry County Sheriff's Office, 1600001025.

PERSONNEL-OFFICE OF THE SECRETARY:

University of Kentucky, Know Your Rx Coalition, 1600000933.

POST SECONDARY EDUCATION, COUNCIL ON:

Murray State University, 1600000923.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001218.

CORRECTIONS, DEPARTMENT OF:

Henderson County Jail, 1500001771.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1400001160; Multi, 1400002654.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

University of Kentucky Research Foundation, 1400002885; Eastern Kentucky University, 1500001918; Mountain Comp Care Center, 1600000486.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Bluegrass Regional Mental Health/ Mental Retardation Board, Inc., 1400001755; KCEOC Community Action Partnership, Inc., 1500001299.

DEPARTMENT FOR PUBLIC HEALTH:

University of Kentucky Research Foundation, 1400001517.

EDUCATION, DEPARTMENT OF:

Garrard County Board of Education, 1500002333; Jefferson County Board of Education, 1600000275.

EDUCATION, OFFICE OF THE SECRETARY:

Morehead State University, 1600000022; Western Kentucky University Research Foundation, 1600000023; Northern Kentucky University, 1600000025; Murray State University, 1600000026.

FISH & WILDLIFE, DEPARTMENT OF:

Mississippi Flyway Council, 1500001289.

INFRASTRUCTURE AUTHORITY:

Harlan County Fiscal Court, 1400001631.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Mount Sterling, 1100000700; Martin County Fiscal Court, 1100001336; Muhlenberg County Fiscal Court, 1200000169; City of Prestonsburg, 1200002606; City of Salt Lick, 1200002608; City of Princeton, 1200003201; City of Nicholasville, 1300000905; City of Cumberland, 1300001176; Owsley County Fiscal Court, 1300001229; Clinton County Fiscal Court, 1300001292; City of Edmonton, 1300001364; Hopkins County Fiscal Court, 1300001743; Union County Fiscal Court, 1300001832; City of Horse Cave, 1300001874; Whitley County Fiscal Court, 1300002073; Casey County Fiscal Court, 1300002226; City of Tompkinsville, 1300002293; City of Shelbyville, 1300002296; Menifee County Fiscal Court, 1300002327; City of Flemingsburg, 1300002378; City of Sebree, 1300002502; City of Midway, 1300002598; City of Fulton, 1300002601; Kenton County Fiscal Court, 1300002646; Green County Fiscal Court, 1300002825; Lee County Fiscal Court, 1300003089; Morgan County Fiscal Court, 1400000094; City of Wheelwright, 1400000277; McCracken County Fiscal Court, 1400000796; Fulton County Fiscal Court, 1400002402; Union County Fiscal Court, 1400003452; Owsley County Fiscal Court, 1400003571; Floyd County Fiscal Court, 1500000608; Martin County Fiscal Court, 1500000616; Housing Authority of Bowling Green, 1500000971.

TRANSPORTATION CABINET:

University of Kentucky Research Foundation, 1400002533.

VETERANS AFFAIRS, DEPARTMENT OF:

Department of Medicaid Services, 1400003745.

WESTERN KENTUCKY UNIVERSITY:

Kentucky State Police, MOA-2016-003.

WORKFORCE INVESTMENT, OFFICE OF:

Barren River Area Development District, 1400002814; Bluegrass Area Development District, 1400002818; Kentuckiana Works/ Workforce Investment Board, 1400002822; Lincoln Trail Area Development District, 1400002823.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

UNIVERSITY OF KENTUCKY:

Sturgill, Turner, Barker & Moloney, PLLC, K16-105. Bill Harris and William Thro 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 MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

ADMINISTRATIVE OFFICE OF THE COURTS:

Mountain Comp Care Center, 1600001045; Mountain Comp Care Center, 1600001046. Jenny Lafferty and Connie Payne discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Oxford House, Inc., 1600000811. Stephanie Craycraft and Adam Trosberg 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.

EARLY CHILDHOOD ADVISORY COUNCIL:

Ohio Valley Educational Cooperative, 1600000989. Terri Tolan and Joe Roberts 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.

EDUCATION, DEPARTMENT OF:

University of Kentucky Research Foundation, 1600000769. Charlie Harman and Tammy Lambert 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.

With no further business before the committee, the meeting adjourned at 3:45 p.m.

PUBLIC PENSION OVERSIGHT BOARD

January 25, 2016

Call to Order and Roll Call

The 1st meeting of the Public Pension Oversight Board was held on Monday, January 25, 2016, at 12:00 p.m., in Room 169 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Jimmy Higdon and Gerald A. Neal; Representatives Brian Linder and Tommy Thompson; Mike Harmon, Tim Longmeyer, John Chilton, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Representatives Brad Montell, Derrick Graham, and Jerry Miller; David Peden, Chief Investment Officer, Kentucky Retirement Systems; Tony Johnson, R.V. Kuhns; Beau Barnes, Deputy Executive Secretary, Kentucky Teachers' Retirement System; Donna Early, Executive Director, Judicial Form Retirement

System; Judge Larry VanMeter, Board of Trustees member, Judicial Form Retirement System; and Bill Thielen, Executive Director, Kentucky Retirement Systems.

LRC Staff: Brad Gross, Bo Cracraft, Terrance Sullivan, Jennifer Hans, and Maurya Allen.

Chairman Bowen directed members' attention to a report by LRC staff that compares the different retirement systems each quarter. It serves as an informational tool for the members when discussing the plans in relation to one another. He thanked LRC staffer Bo Cracraft for his efforts in gathering and formatting the data.

Approval of Minutes

Representative Thompson moved that the minutes of the December 17, 2015, meeting be approved. Mr. Jefferson seconded the motion, and the minutes were approved without objection.

Kentucky Retirement Systems Investment/Asset Allocation Update

Mr. David Peden, Chief Investment Officer, Kentucky Retirement Systems (KRS), and Mr. Tony Johnson, Investment Consultant, R.V. Kuhns, provided an update regarding KRS investments and asset allocation for the quarter ended December 31, 2015. Mr. Peden reminded members that KRS approved new asset allocation programs in November 2015 following the results of the asset liability study performed in May 2015. The study was completed late in the summer of 2015 and the results were presented to the KRS Investment Committee in August. Mr. Johnson testified that the KRS insurance plans were healthy with an asset level growing at a greater rate than liabilities so the funded ratio was high enough to support a robust, diversified, and growth-oriented asset allocation going forward. With no anticipated changes to the insurance plans that would negatively affect the projections, it was believed that the plans should meet the actuarial target of 7.5 percent. For the pension plans, there were two different conclusions. First, the County Employees Retirement System (CERS) Non-Hazardous, CERS Hazardous, and the Kentucky Employees Retirement System (KERS) Hazardous plans were found to be relatively healthy and could continue to pursue a diversified and growth-oriented asset allocation program, still targeting a 7.5 percent rate of return. Mr. Johnson emphasized the necessity that the forecasted contributions would be made and pension payments would be within the forecasted range.

The second conclusion, for the KERS Non-Hazardous and the State Police Retirement System (SPRS) plans, was that liabilities were projected to grow at rates in excess of the rate of growth for assets. Even at a 7.5 percent rate of return, assets would not keep pace with rate of growth of liabilities. R.V. Kuhns concluded that a different asset allocation program needed to be in place for these plans. Also, even at 7.5 percent rate of return, it would take at least double the return, or 50 percent, to keep up with the rate of growth of liabilities. It is the opinion of R.V. Kuhns and many other investment professionals that, over the next 5-10 years, it would be very difficult for any plan, be it a pension plan or an endowment plan (which can take on higher level of risk), to meet or exceed a 15 percent rate of return. The expectations going forward are much lower than historical rates of return, so even 7.5 percent would be a difficult target to reach.

Mr. Johnson stated that to determine what the asset allocation should be two pieces of information are utilized, liquidity and downside tolerance of the portfolios. The downside tolerance means that, during a market downturn, how much capital depreciation can the system withstand, including how long would it take to recover, for the plans to still be considered solvent. The CERS Hazardous, CERS Non-Hazardous, and KERS Hazardous are healthy enough to withstand market volatility and do not require as much liquidity to meet obligations. This was determined looking at the funded ratio, the projected funded ratio over the next 20 years, and the 20-year peak payout ratio. Typically, a funded ratio of 50 percent or better indicates the plan is healthy, especially if it is improving over time. This is the case for the three referenced plans. It is also good to see a payout ratio of 15 percent or lower, meaning that the amount paid out of the plan each year to meet obligations. For the three plans, over a 20-year period, the peak is 10-11 percent which is comfortable. Mr. Johnson said that there is a glide path to that peak and a glide path down, and that these are not one time payouts.

Conversely, looking at KERS Non-Hazardous and SPRS, the current funded ratios are poor, 22 percent for KERS Non-Hazardous and 38 percent for SPRS. Over a projected 20-year period, the funded ratios do not exceed 50 percent, although SPRS comes close. The payout ratio for KERS Non-Hazardous is just over half, meaning over half of the assets are paid out at the peak. And a little over 25 percent assets will be paid out of SPRS at the peak. These show that the demand on assets will be fairly great to meet the pension obligation. In order to do that, it is necessary to reduce the amount of illiquid assets in the portfolio. Pension plans rely on high risk assets, such as stocks, in order to see the greatest return but also generate greater volatility. Private equity also provides volatility. For plans such as KERS Non-Hazardous and SPRS, having a low funded ratio and a high payout ratio indicates that the demand on capital is high and it is necessary to access as much of the assets as possible. It is therefore not possible to have more volatile and illiquid assets in the portfolio because it is necessary to preserve capital and illiquid assets will need to be liquidated sooner rather than later.

Chairman Bowen asked if these projections assumed that the full actuarial required contribution (ARC) was paid each year. Mr. Johnson stated that those were assumed in the models. He said that stress tests performed on the plans showed that there were even worse outcomes. For KERS Non-Hazardous, a worse-case scenario could result in a payout ratio of 80-90 percent in one year. The asset allocation proposed for CERS Non-Hazardous, CERS Hazardous, and KERS Hazardous, was to continue using a robust, diversified portfolio featuring equities, global fixed income, real estate, inflation sensitive assets, hedge funds, private equity, and cash. To achieve a 7.5 percent return, it is necessary to increase the volatility, in this instance, with global equity. R.V. Kuhns also recommended a 10 percent allocation to private equity and a 10 percent allocation to hedge funds.

In 2014-15, there was increased interest in alternative investments in pension plans, particularly in private equity and hedge funds. Private equity received a lot of attention for having higher fees and suffering after the 2008 financial crisis. Mr. Johnson stated that in 2014-15 private equity has driven returns in pension plans across the country. Because these plans can withstand a level of illiquidity and volatility, R.V. Kuhns does recommend a 10 percent allocation to private equity. Similarly, hedge funds received negative attention and there were reports that other pension plans were leaving the hedge fund marketplace. This report has since been reversed, because there is still value in participating in hedge funds. Mr. Johnson said that hedge funds are expensive but that they reduce overall volatility to the portfolio. Although hedge funds appear to be a liability on the portfolio, the benefits will be more apparent during downturns in the market such as are currently occurring. Real estate serves a similar purpose in the portfolio. Combined, the expected return for the portfolio is 7.23 percent, slightly below the desired return but this does not include the assumptions that staff can exceed the median estimations used for projections.

Ms. Stemler asked how much of the global equity represented U.S. investment versus international investment. Mr. Johnson said that the standard ratio was 50 percent in U.S. and 50 percent international and that was the projection. However, this is based on the marketplace and is subject to change. Ms. Stemler stated that that seemed very high for international investment. Mr. Johnson stated that that was on par with the standards worldwide. Representative Miller asked if the KERS and SPRS projections took into account a 4 percent payroll growth. Mr. Johnson said that it did. Representative Miller followed up by asking if a sensitivity analysis had been performed if the payroll growth was flat. Mr. Johnson replied that they had not performed one, but that could be provided for presentation later. Mr. Chilton asked what type of securities the hedge fund investments represented. Mr. Peden answered that they were diversified and included one external relationship fund-to-fund with discretion to invest in a wide range of hedge fund strategies and half in internally managed fund-to-funds which include event driven strategies like merger arbitrage, long short equity, and equity market neutral, or relative value strategies like convertible bond arbitrage and fixed income arbitrage, and finally volatility strategies where if volatility increases the fund makes money and likewise in the opposite direction. The goal being a volatility of between 4.5 and 6 percent. Another goal was to not have correlation to the S&P 500, the credit markets, or interest rates. Underlying securities in a hedge fund are the same as those in the rest of the portfolio, for example, stocks, bonds, loans, cash, and derivatives. Mr. Chilton asked if hedge funds were more actively traded than other portfolios. Mr. Peden stated that it depends on the particular strategy, but they can be.

Mr. Johnson discussed KERS Non-Hazardous and SPRS where the payout ratios are high and funded ratios are low. To accomplish the goals for these plans, R.V. Kuhns recommends a target of 6.67 percent return on investment as opposed to the 7.5 percent return for several reasons. First, the necessity to preserve the assets while still targeting a growth orientation. Second, ensuring that assets are liquid enough to cover increased payments in the near future. To do this, it was necessary to lower the allocation to private equity to 2 percent from the previous allocation of 10 percent. This brings down the potential return, and normally allocation would be shifted to compensate. But in the interest of prudence, it is not advised to invest any more in global equity because of volatility, so that class was capped at 50 percent. To reach the lowered allocation however, R.V. Kuhns recommends a natural wind-down of private equity, meaning returns from that asset class will be reinvested in other classes rather than back into private equity.

Senator Higdon stated that he understood other states invest more in real estate leases and that he would like to see Kentucky participate in a similar program. He asked what the likelihood of that happening for KRS might be. Mr. Peden answered that it would be easier for CERS and the hazardous plans to participate in a program like that because they have the available assets and do not have the same needs for liquidity. The 5 percent real estate target outlined in the current asset allocation would however allow for some strategies such as real estate leases and Mr. Peden said that would be something to consider in the future. Mr. Johnson finished his presentation regarding KERS Non-Hazardous by looking at the allocation if they continued to target 7.5 percent returns while maintaining the necessary liquidity. As a result, private equity investment would be 72 percent, and while the expected return would be 7.48 percent, the expected risk would be much higher at 15.58 percent. That also represents a significant downside during an economic downturn, such as the markets are currently experiencing, and would result in a more far-reaching impact. Mr. Peden emphasized that the goal was not to sell private equity in a secondary sale, but the intention is to let it mature and roll off over time. It is anticipated to reach near the 2 percent goal in the next 5 years. Senator Bowen asked for confirmation that there had been no new investment in private equity since 2009. Mr. Peden answered that, for KERS Non-Hazardous, that was correct.

In regards to SPRS, there was a recommendation of higher allocation to global equity and a slightly lower allocation to global fixed income resulting in a slightly higher return. Mr. Johnson explained that that was the result of having better payout ratio but results in a target of 6.77 percent rate of return. To better illustrate the comparison of KRS plans to a hypothetical most efficient portfolio, Mr. Johnson presented an efficient frontier graph mapping the position of each plan relative to the hypothetical plan in terms of annualized return and annualized standard deviation of risk. This showed how the plans could invest more as they got stronger over time, especially those which were already shown to be relatively healthy. He emphasized that it would be much harder for the two struggling plans and that is why it was suggested to be more conservative in investment strategy at this time. Mr. Peden stated that he wanted to share this data with the board to illustrate the mean variance optimization, the return which can be maximized per unit of risk, and that the importance of balancing the investment classes to best meet that optimized situation.

Mr. Chilton asked if the projected funded ratio presented was at the end of 20 years or at some point during the 20 years. Mr. Johnson answered that it was at the end, that the progression was not that great over the 20-year period given the current contribution and liability schedules. Mr. Chilton then asked if the payout ratio was the high point during that time frame and Mr. Johnson answered that it was. Mr. Peden added that after the passage of Senate Bill 2 of the 2013 Regular Session, the improvement was largely in the last 10 years of the modeling study which led to the legislation, so it is correct to assume that most improvement will not be seen in the beginning of the 20-year period.

Representative Thompson stated that it seemed the largest constraint on the return for KERS Non-Hazardous was the illiquidity needed to meet the larger payout ratio. And given the tepid nature of the market currently, which is forecast to remain so for several years, he asked how realistic the 6.67 percent return might be. Mr. Johnson answered that it was difficult to predict the returns at any point of time, but it is believed that with the current payout ratio it is possible to reach 6.67 percent. There will always be downturns, but the recovery is still capable of keeping the pension system solvent over time, especially after a 5-10 year time period.

Before concluding, Mr. Peden briefly testified regarding KRS's quarterly returns. He stated that during the second fiscal quarter, or the fourth quarter of the calendar year 2015, KRS had a quarterly return of 1.9 percent, just shy of the benchmark return of 2.0 percent. He said that December presented a real challenge, and things had not greatly improved in January to date. Overall, the system is down 2.95 percent and the markets for January had the worst start for equity investments on record. Representative Montell asked if the 2.95 percent referred to the quarter or the full year. Mr. Peden reported that it was for the fiscal year to date, representing the last two quarters of calendar year 2015. Representative Montell asked about the return for the whole calendar year 2015. Mr. Peden answered that the return was essentially flat, down two basis points. And the benchmark was up 64 basis points for the calendar year 2015.

Kentucky Teachers' Retirement System Investment Update

Mr. Beau Barnes, Deputy Executive Secretary, Kentucky Teachers' Retirement System (KTRS), presented the investment update for KTRS for the quarter ended December 31, 2015. Mr. Barnes apologized that he did not yet have the detailed report they would normally be able to provide. He stated that the numbers he had were preliminary reports and KTRS is working with their custodial bank, Bank of New York, so that for future meetings they will have final audited returns and greater detail. He did inform the board that KTRS' returns were 3.5 percent, largely as a result of improvements in equity markets. The bond market was relatively flat. And he testified that while November was a good month, December was an off month for the system. He also stated that the national benchmarks for the system were not available at this time. However, he would be willing to come back to testify when all data become available. Chairman Bowen asked for clarification regarding the returns for the fiscal year to date. Mr. Barnes answered that the returns for the quarter were 3.5 percent and for the fiscal year to date they were -2.4 percent because the first quarter was a very bad quarter for the system.

Judicial Form Retirement System Investment Update

Ms. Donna Early, Executive Director, Judicial Form Retirement System (JFRS), and Judge Larry VanMeter, Investment Committee Chairperson, JFRS, were present to speak regarding the investment update for the quarter ended December 31, 2015. Chairman Bowen reminded members of the board that all the information regarding investment updates for the systems was on the handout provided in member packets by LRC staff. Judge VanMeter said that the investment return was 4.7 percent, meeting their benchmark. For the fiscal year to date, returns were up 1.4 percent. The equity portfolio is largely in publicly traded S&P companies and the bond portfolio is largely in corporate bonds with some municipal bonds due to taxation. The ratio is approximately 75 percent equity, 25 percent fixed income. The returns are always above benchmark, which is positive and the system does not see a need to change strategies at this time. The annual income, dividends, and interest combined with the ARC payment roughly equals the annual cash requirements for the pensions so the system does not need to dip into investments to meet those needs. The JFRS investment manager had expressed to the JFRS Investment Committee that risk equals permanent loss of capital so the committee does not concern itself with a short-term market declines because there will always be ups and downs with the market. They do not participate in private equity or hedge funds as the other systems do so they cannot report on those.

Kentucky Retirement Systems Update on Agency Participation Issues/Contract Employees

Mr. Bill Thielen, Executive Director, Kentucky Retirement Systems (KRS), spoke regarding agency participation and contract employee issues facing KRS. He began by introducing three members of the KRS Board of Trustees who were in attendance, Tommy Elliot, Chair; David Rich, CERS representative; and Vince Lang, KERS representative. Mr. Thielen said that during the fall there had been discussion of about the changes in assumptions made by the KRS Board of Trustees, particularly the payroll growth assumption which was reduced from 4.5 to 4.0 percent. One reason proposed for the lack of payroll growth was that some agencies which participate in the systems were able to avoid making contributions for employees, which they might have historically made, through hiring independent contractors or using other methods. The Public Pension Oversight Board made a recommendation in December that KRS was to study issues related to agency participation, including the use of independent contractors, and provide a listing of all agencies attempting to avoid making contributions through various means. Mr. Thielen said that KRS had collected data covering the last four fiscal years and have developed a spreadsheet provided to members showing both member number trends and salary trends. The member trends data shows the number of members being reported, meaning contributions being paid, and the salary trends the total salaries or compensations reported, by the various classes of agencies. He explained that the data was only provided for the last four years because there is difficulty getting accurate data due to the implementation of the new technology system in 2011. The legacy technology system does not allow for the collation of this kind of data. KRS is continuing to work on this project with the goal of extending the data at least as far back as 2009.

In general, the data does show that only the KERS Non-Hazardous plan experienced a decrease in the number of members for which contributions were being reported for this time period. Over that time the numbers dropped by 4,462 members, nearly all of which can be attributed to decreases from three agency classes. Those classes were regional mental health units, health departments, universities. Only the state plans showed a decrease in total payrolls. The KERS Non-Hazardous plan decreased by approximately $150 million and a majority of that is attributable to the three classes mentioned. In the KERS Hazardous plan there was a decrease of just over $1 million and in SPRS there was a decrease of approximately $4 million. It is not possible at this time to identify the exact causes for these declines, but KRS staff is attempting to get more information on the number of independent contractors that have replaced employees or those that were hired outright and never represented an employee. That information is not readily available but there are sources which have identified over 600 independent contractors who work in the Commonwealth Office of Technology and with the implementation of the Kentucky Human Resources Information System (KHRIS). Aside from that it is difficult to know the number of contractors working for other state agencies. It may be necessary to perform an open records request to get that information from each state agency.

Representative Yonts asked how many individuals were a part of the mental health unit which is known to have dissolved and then recreated itself using only contract laborers. Mr. Thielen indicated that the representative was likely referring to Seven Counties Services, which had approximately 1,300 employees, and Kentucky River Community Care, which had approximately 600 employees. Representative Yonts asked if the total costs of privatization of food services and medical services in corrections had been considered. Mr. Thielen stated that they had not, and indicated that corrections and transportation were two areas that would need much closer investigation. Representative Yonts expressed that nursing staff in state supported hospitals throughout the state might also present another source. He then stated that the Finance and Administration Cabinet is working on a report, in accordance with a 2010 statute, regarding personnel information be maintained and the last report was issued in 2011. Chairman Bowen asked for clarification regarding the Kentucky River Community Care situation. Mr. Thielen stated that it was also in litigation, as is the Seven Counties Services situation. Chairman Bowen asked for an update on the Seven Counties Services litigation. Mr. Thielen reported that currently the case is under appeal in district court and it is unknown when that appeal will be heard. Additionally, KRS has filed a motion to move a specific issue to the Kentucky Supreme Court and no statement has been made on that yet.

Auditor Harmon asked about the impact on investment strategies due to the loss of money contributed because of privatization. Mr. Thielen said they had not looked at that specifically, but it was evident that less contributions did have a negative impact on investment ability. Long-range investment returns have been positive, with poor returns in the short-term, and it would be preferable to have greater ability to invest in some longer range strategies. Mr. Longmeyer asked if there are new participants in the third tier of benefits, which would automatically result in a net gain, what the impacts were for losses in the first or second tier. Mr. Thielen said that that was true and that most of the contributions currently are going to pay the unfunded liability.

Representative Yonts asked if capturing the percentage of payroll from privatization would contribute significantly to cash flow. Mr. Thielen stated that it would absolutely be a positive, much like retired/re-employed situation. Representative Yonts followed up with a question about the level of state employees currently employed. Mr. Thielen said that the state is at its lowest number of employees for several years. KRS will continue to work on quantifying the impact of this issue.

Mr. Thielen spoke in regards to other recommendations from the Public Pension Oversight Board made in their December meeting. The various retirement systems have discussed presenting their returns as net-of-fees, which KRS already does, so they are already in compliance. Representative Yonts asked if KRS had collaborated with the other two systems on ways to do that. Mr. Thielen said KRS had reached out to KTRS but an agreement had not been reached. And it was his understanding that JFRS would follow the lead of the other two larger systems. Representative Yonts asked that that be clarified by next board meeting so it can be included in legislation if necessary.

Senator Higdon asked what CERS Hazardous Insurance Plan costs were, following the change to covering dependents which went into effect on January 1, 2016. Mr. Thielen said that it would take until the end of January to have the most accurate numbers. Senator Higdon also asked if KRS had any recommended legislation that the board should be aware of. Mr. Thielen answered that the most pressing legislation was the KRS housekeeping legislation which was prefiled. He also briefly mentioned pension spiking reform legislation and an actuarial analysis of flat payroll growth at the recommendation of Representative Miller.

Representative Yonts also asked about the board recommendation that KRS present three options for addressing cash flow issues facing the KERS Non-Hazardous fund. Mr. Thielen said that in a letter sent to the board in December they had outlined four options for improvements of cash flow. Senator Bowen directed members' attention as well to a handout with legislation related to the board jurisdiction that had been introduced in the General Assembly. He encouraged members to become acquainted with the legislation and support its passage.

With no further business to come before the board, the meeting was adjourned at 1:30 p.m. The next regularly scheduled meeting of the board will be Monday, February 22, 2016 at 12:00 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the December Meeting

December 9, 2015

Call to Order and Roll Call

The December meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, December 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 Tommy Turner.

Guests: Andy Crocker, Personnel Board; Marcus Jones, Perry Wornall, Board of Veterinary Examiners; Jack Ballard, Nicole Biddle, Rex Cecil, Timothy Murphy, Board of Architects; Brian Judy, Sandra Kelley, Board of Alcohol and Drug Counselors; Denise Logsdon, Board of Licensure for Massage Therapy; Dr. Karen Waldrop, David Wicker, Department of Fish and Wildlife; Harland Hatter, Clint Quarles, Steve Sims, Department of Agriculture; Peter Goodmann, R. Bruce Scott, Division of Water; Anthony Hatton, Division of Waste Management; Amy Barker, Department of Corrections; Patrick Shirley, Department of Workforce Investment; Sandy Gruzensky, Franklin Reed, Division of Mine Safety; Jack Coleman, Michael Davis, Mark Jordan, Department of Housing, Buildings and Construction; Noelle Baily, Scott Jones, Department of Charitable Gaming; Diona Mullins, Office of Health Policy; Stephanie Brammer-Barnes, Maryellen Mynear, Office of Inspector General; Laura Begin, Matt McKinley, Eric Perry, Division of Public Health Protection and Safety; Stuart Owen, Department of Medicaid Services; Nancy Galvagni, Sarah Nicholson, Kentucky Hospital Association.

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

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

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL BOARD: Board

101 KAR 1:325. Probationary periods. Andy Crocker, general counsel, represented the board.

In response to a question by Co-Chair Harris, Mr. Crocker stated that this administrative regulation was expected to improve retention rates for correctional officers by reducing the initial probationary period from eight (8) to six (6) months.

GENERAL GOVERNMENT CABINET: Board of Veterinary Examiners: Board

201 KAR 16:050. Continuing education. Marcus Jones, assistant attorney general, and Perry Wornall, chair, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 6 to revise the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Board of Architects: Board

201 KAR 19:035. Qualifications for examination and licensure. Nicole Biddle, assistant attorney general; Rex Cecil, executive director; and Tim Murphy, president, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a citation: and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:087. Continuing education.

In response to questions by Co-Chair Harris, Mr. Cecil stated that the board experienced problems with licensees not meeting continuing education requirements in the past decade; however, those problems were minimized each year. Currently, the board did not experience many licensees failing to meet continuing education requirements, which were available online and sometimes free of cost.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 4 to establish that the change in the continuing education reporting year to January 1 through December 31 begins on calendar year 2017; (3) to amend Section 5 to add the board's Web site address; and (4) to amend Section 7 and the Architect License-Reinstatement-Restoration Application to: (a) make technical changes; and (b) add a requirement that the applicant pay the fee required by 201 KAR 19:085. Without objection, and with agreement of the agency, the amendments were approved.

Board of Alcohol and Drug Counselors: Board

201 KAR 35:010 & E. Definitions for 201 KAR Chapter 35. Brian Judy, assistant attorney general, and Sandra Kelley, board member, represented the board.

In response to questions by Co-Chair Harris, Mr. Judy stated that these administrative regulations were a response to House Bill 92 of the 2015 Regular Session of the General Assembly. The major change to these administrative regulations was the three (3) new credentialing levels. Criteria in these administrative regulations were based on standards from the national association, and many other states used these same standards.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1: (a) for clarity; and (2) to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:015 & E. Grandparenting of certification to licensure.

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 to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1 to specify an application; and (4) to amend a form incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:020 & E. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4, and 9 to specify forms; (2) to amend Section 1 for clarity; (3) to amend Sections 4 and 5 to specify fees and penalties; (4) to amend forms incorporated by reference for consistency; and (5) to amend Sections 1, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:030 & E. Code of ethics.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 4 for clarity; and (2) to amend Sections 2 through 6, 8, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:040 & E. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 2 for clarity; (4) to amend Section 8 to add serious illness or injury to the conditions that may qualify for a waiver or extension of time to meet continuing education requirements; (5) to amend forms incorporated by reference for consistency; and (6) to amend Sections 1 through 4, 6, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:050 & E. Curriculum of study.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 1 to specify forms; (3) to amend forms incorporated by reference for consistency; and (4) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:055 & E. Temporary registration or certification.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Sections 1 and 2 to specify forms; (3) to amend Section 3 to specify that a written request shall be required for the board to consider approval for an extension of a temporary credential; (4) to amend Sections 1 through 3: (a) to comply with the drafting requirements of KRS Chapter 13A; and (b) for clarity; and (5) to amend forms incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:060 & E. Complaint procedure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 and 2 for clarity; and (3) to amend Sections 4, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:070 & E. Supervision experience.

In response to a question by Co-Chair Harris, Mr. Judy stated that supervision experience hours were tiered based on educational degree obtained and experience.

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 to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 5, and 6 to specify forms; (4) to amend Section 3 to add examples of the types of circumstances to qualify for approval for the use of an alternate format of supervision; (5) to amend Sections 1, 2, 3, 5, 7, 8, 9, 10, and 12: (a) to comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) for clarity; and (6) to amend forms incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:075 & E. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 1 to: (a) specify a form; (b) add a citation; and (c) provide clarity; and (3) to amend forms incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:080. Voluntary inactive status.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:090 & E. Appeal from a denial of or refusal to renew or reinstate a registration, certificate, or license, or denial of continuing education hours by the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 and 2: (a) to comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) for clarity. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Professional Counselors: Board

201 KAR 36:030. Continuing education requirement. Brian Judy, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 1 through 4, 6, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Massage Therapy: Board

201 KAR 42:020. Fees. Marcus Jones, assistant attorney general, and Denise Logsdon, chair, represented the board.

201 KAR 42:035. Application process, exam, and curriculum requirements.

In response to a question by Senator Clark, Mr. Jones stated that some complaints against licensees were related to criminal sexual assault. On-going police investigations sometimes required witnesses to remain anonymous. This administrative regulation allowed a complainant’s name to be redacted in order to not jeopardize a police investigation.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to add the board’s Web site address; and (2) to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42:040. Renewal.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to add the board’s Web site address. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42:050. Complaint procedure and disciplinary action.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42:080. Programs of massage therapy instruction.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42:110. Continuing education requirements.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:030. Commercial guide license. Dr. Karen Waldrop, deputy commissioner, and

David Wicker, general counsel, represented the department.

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, 2, 3, and 5 and the Commercial Guide License Application Form to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 3 to clarify that a commercial guide license holder shall be responsible for a violation of this administrative regulation by a helper who is registered by the commercial guide. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:083. Holding and intrastate transportation of captive cervids.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1 through 4 and 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.

301 KAR 2:142. Spring wild turkey hunting.

In response to questions by Representative Turner, Dr. Waldrop stated that the Department of Parks determined if a state park would offer a spring wild turkey hunt. The Department of Fish and Wildlife Resources did not anticipate a state park offering a quota hunt. Dr. Waldrop stated that she would ensure that there was an equitable hunting process and follow up with Representative Turner regarding that process once it was established.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 5 and 6 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: Department of Agriculture: Office of Consumer and Environmental Protection: Division of Environmental Services: Structural Pest Control

302 KAR 29:010. Definitions for 302 KAR Chapter 29. Harland Hatter, deputy executive director; Clint Quarles, staff attorney; and Steve Sims, structural branch manager, represented the division.

A motion was made and seconded to approve the following amendments: 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.

302 KAR 29:020. General provisions for structural pest control.

302 KAR 29:040. Settlement proceedings.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 29:050. Commercial structural pest control and fumigation.

A motion was made and seconded to approve the following amendments: to amend Section 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 29:060. Certification.

A motion was made and seconded to approve the following amendments: to amend Sections 5 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:026. Designation of uses of surface waters. Pete Goodmann, executive director, and Bruce Scott, commissioner, represented the division.

In response to questions by Co-Chair Harris, Mr. Scott stated that this administrative regulation related to 402 permits pursuant to the Clean Water Act, not water segments from the 301 list. These designations were based primarily on threatened and endangered species.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

A motion was made and seconded to approve the following amendments: 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.

401 KAR 10:031. Surface water standards.

Division of Waste Management: Underground Storage Tanks

401 KAR 42:045. Delivery prohibition. Tony Hatton, executive director, and Bruce Scott, commissioner, represented the division.

In response to questions by Co-Chair Harris, Mr. Scott stated that the Underground Storage Tank Program was operating much better than it had in years past. Each tank owner paid a thirty (30) dollar insurance fee for $1 million in coverage. Some owners did not pay, and this administrative regulation prohibited delivery until that payment. The gas tax that allocated 1.4¢ per gallon was currently adequate; however, it would not be adequate in the long term. The division expected the financial insufficiency of the gas tax to be a significant problem in the long term.

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

501 KAR 6:060. Northpoint Training Center. Amy Barker, assistant general counsel, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that this administrative regulation was being amended as part of the annual policy update process.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) update citations; and (2) make minor clarifications. Without objection, and with agreement of the agency, the amendments were approved.

Education and Workforce Development Cabinet: Department of Workforce Investment: Office of Vocational Rehabilitation: Administration

781 KAR 1:030. Order of selection and economic need test for vocational rehabilitation services. Patrick Shirley, staff attorney, represented the department.

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

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Safety: Mining Safety Standards

805 KAR 3:100. Equipment use and operation. Sandy Gruzesky, deputy commissioner, and Frank Reed, division director, represented the division.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Division of Plumbing: Boilers and Pressure Vessels

815 KAR 15:010. Definitions for 815 KAR Chapter 15. Jack Coleman, deputy commissioner; Michael Davis, general counsel; and Mark Jordan, chief boiler inspector, represented the division.

In response to questions by Co-Chair Harris, Mr. Davis stated that these administrative regulations were developed in a two (2) year process by the Boiler and Pressure Vessel Board. Stakeholders did not raise concerns during the development process or during the public comment period. These standards had already been effective for approximately three (3) years, and stakeholders had not indicated any unintended consequences during that time. Mr. Jordan stated that these administrative regulations were being updated commensurate with the national code, but there were not any major changes. Mr. Coleman stated that these amendments were similar to recent updates pertaining to other boards under the Department of Housing, Buildings and Construction.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) clarify the definition for "repair" to establish that a repair complies with the National Board Inspection Code. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:025. New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

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

Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:027. Certificates and fees for boiler and pressure vessel inspection.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) make a technical correction; and (2) add language to subsection (7) to clarify that the fee frequency is not changing from the previous version of this administrative regulation, in that the fee shall be required for a special trip to witness the application of a hydrostatic test. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:040. Power boiler and pressure vessel supplemental requirements.

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.

815 KAR 15:051. Heating boiler supplemental requirements - steam heating, hot water heating, and hot water supply boilers.

A motion was made and seconded to approve the following amendment: to amend Section 1(3)(g) to correct a cross-reference citation. Without objection, and with agreement of the agency, the amendment was approved.

815 KAR 15:060. Nuclear vessel requirements.

815 KAR 15:080. Licensing for boiler and pressure vessel contractors, owner facilities, owner's piping inspectors, and independent inspection agencies.

Department of Charitable Gaming: Charitable Gaming

820 KAR 1:044. Bingo equipment. Noelle Bailey, general counsel, and Scott Jones, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) comply with the drafting requirements of KRS Chapter 13A; (b) add the substantive requirements for card-minding devices moved out of the main definitions administrative regulation for the chapter; and (c) clarify that modifications to a card-minding device or its software that require testing and certification shall not include routine maintenance activities; (2) to amend Section 3 to establish that the department shall be notified of any change of information needed to access the system at least three (3) days prior to the change to be consistent with the department having real-time access; and (3) to amend Section 6 to: (a) delete the device limitation on each player to use one (1) card-minding device at a time with a maximum of 1,000 card faces; and (b) restore the existing limitation of limiting each card-minding device to a maximum of seventy-two (72) card faces during any one (1) game of a session. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:100. Certificate of need standards for implementation and biennial review. Diona Mullins, executive advisor, represented the office.

Data Reporting and Public Use Data Sets

900 KAR 7:030. Data reporting by health care providers.

A motion was made and seconded to approve the following amendments: to amend Section 1 to delete an outdated definition. Without objection, and with agreement of the agency, the amendments were approved.

Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:180. Psychiatric hospitals; operation and services. Stephanie Brammer-Barnes, internal policy analyst, and Maryellen Mynear, inspector general, represented the division. Nancy Galvagni, senior vice president, Kentucky Hospital Association, appeared in support of Subcommittee Amendments 1 and 2 to 902 KAR 20:260.

Senator Clark stated that the Subcommittee Amendment authorized licensed clinical alcohol and drug counselors and licensed clinical alcohol and drug counselor associates to provide assistance in specific situations.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A; and (4) to amend Sections 1 and 6 to add "licensed clinical alcohol and drug counselor" and "licensed clinical alcohol and drug counselor associate". Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 20:260. Special health clinics.

Senator Clark stated that Subcommittee Amendment 1 authorized a hospital – acquired physician practice seeking licensure as a special health clinic to operate with at least one (1) physician and other necessary staff or ancillary personnel, without requiring a nurse to be on staff. Subcommittee Amendment 2: (1) made clarifications; (2) added fully licensed APRNs to the list of professionals who may serve as clinical director in certain circumstances; (3) authorized at least one (1) APRN in lieu of at least one (1) physician or dentist in certain circumstances; and (4) deleted the supervision exception for a family planning clinic or wellness center.

Ms. Mynear stated that the division supported these Subcommittee Amendments. Ms. Galvagni stated that the Kentucky Hospital Association also supported these Subcommittee Amendments.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 4 to allow a hospital - acquired physician practice seeking licensure as a special health clinic to operate with at least one (1) physician and other necessary staff or ancillary personnel, without requiring a nurse to be on staff; (4) to amend Section 2 to clarify that an office or clinic exempt from CON requirements, pursuant to 900 KAR 6:130, shall not be required to obtain licensure as a special health clinic; (5) to amend Sections 3 and 4 to: (a) change "medical director" to "clinical director"; and (b) add a fully licensed APRN as a professional who may serve as clinical director, if the APRN is responsible for the clinic and only provides services within the scope authorized pursuant to KRS Chapter 314; (6) to amend Section 3 to: (a) clarify that a licensed special health clinic that provides only speech services shall not be required to have a physician or APRN serve as clinical director; (b) change "physician" to "practitioner"; and (c) allow for at least one (1) APRN, in lieu of at least one (1) physician or dentist, if the clinic provides only dental services, to staff the clinic in addition to the other staff listed in the personnel subsection of this administrative regulation; and (7) to amend Section 4 to delete the supervision exception for a family planning clinic or wellness center. Without objection, and with agreement of the agency, the amendments were approved.

Division of Public Health Protection and Safety: Radiology

902 KAR 100:037. Physical protection of category 1 and category 2 quantities of radioactive material. Laura Begin, regulation coordinator; Matt McKinley, radiation health branch manager; and Eric Perry, radiation health specialist, represented the division.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:026. Dental services' coverage provisions and requirements. Stuart Owen, regulation coordinator, represented the department.

In response to a question by Co-Chair Harris, Mr. Owen stated that bed slots were federally funded through the biennium budget process. There were currently 179 bed slots, with 260 on the waiting list. These administrative regulations assisted with allowing patients to receive in – home care, rather than care at a hospital or nursing facility.

Senator Kerr stated that it was important to bring awareness to the problem of armed forces members returning with traumatic brain injuries.

A motion was made and seconded to approve the following amendments: (1) to amend Section 7(4)(a) to clarify coverage limits for a restorative procedure performed in conjunction with a pin retention procedure to change amalgam to an appropriate medically necessary restorative material; (2) to amend Section 20 and the material incorporated by reference to: (a) change the edition date; and (b) update the current dental terminology codes to include two additional codes and delete an outdated code; (3) to amend Sections 1, 2, 3, 13, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 12 to delete repetitive language that was already included in 907 KAR 1:626. Without objection, and with agreement of the agency, the amendments were approved.

Division of Community Alternatives: Medicaid Services

907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:626. Reimbursement of dental services.

A motion was made and seconded to approve the following amendments: (1) to amend Section 9 and the material incorporated by reference to: (a) change the edition date; and (b) update the current dental terminology codes to include two (2) additional codes and delete an outdated code; and (2) to amend Sections 1 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Payment and Services

907 KAR 3:090. Acquired brain injury waiver services.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, 6, 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 3:210. Acquired brain injury long-term care waiver services and reimbursement.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 5, 6, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 11 to require compliance with a longer document retention timeframe if the Secretary of the United States Department of Health and Human Services requires a longer document retention period, pursuant to 42 C.F.R. 431.17. Without objection, and with agreement of the agency, the amendments were approved.

Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:020. Coverage provisions and requirement regarding outpatient psychiatric hospital services.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 4 to add certified prevention specialists and registered alcohol and drug peer support specialists as authorized practitioners to provide services under this administrative regulation; and (2) to amend Sections 1, 4, 7, and 8 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) correct cross-references within the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 3 through 11 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) establish payment provisions for psychiatric hospitals using a fee schedule (with a flat dollar amount paid for each service) rather than a cost-based method; and (2) to amend Sections 1, 3 through 6, and 9 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the January 11, 2016, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

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

902 KAR 20:200. Tuberculosis (TB) testing for residents in long-term care settings.

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

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

Division of Policy and Operations: Medicaid Services

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

Division of Community Alternatives: Medicaid Services

907 KAR 1:835. Michelle P. waiver services and reimbursements.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies.

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

The Subcommittee adjourned at 2:15 p.m. until January 11, 2016, at 1 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January Meeting

January 11, 2016

Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 11, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair;

Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; and Representative Tommy Turner.

Guests: Leanne Diakov, Board of Medical Licensure; Ava Eaves, Nicole Biddle, Board of Licensure and Certification for Dietitians and Nutritionists,; Brian Judy, Board of Licensure for Pastoral Counselors; Steve Beam, Karen Waldrop, David Wicker, Department of Fish and Wildlife; Sean Alteri, William Gooch, Division for Air Quality; Amy Barker, Renee Craddock, Jamie Mosley; Department of Corrections; Laura Begin, Paula Goff, Jeremy Hart, Department for Public Health; Emily Anderson, Stephanie Brammer Barnes, Robert Brawley, Maria Dalbey, Department for Public Health; Stephanie Hold, Jill Lee, John McGuire, Office of the Inspector General.

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

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:470. Standardized medical order for scope of treatment form. Leanne Diakov, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 2 to establish that it shall be acceptable and prevailing medical practice for a licensee to use the standardized MOST, Medical Orders for Scope of Treatment form; and (4) to amend Section 3 to incorporate by reference the standardized MOST, Medical Orders for Scope of Treatment form. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure and Certification for Dietitians and Nutritionists: Board

201 KAR 33:015. Application; approved programs. Ava Eaves, chair, and Nicole Biddle, assistant attorney general, represented the board.

201 KAR 33:020. Renewals.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify that there was an exception to the expiration of a license or certificate in Section 2 for a late renewal within the grace period; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to clarify that this administrative regulation applied to the renewal of a license and a certificate; (3) to amend Section 5 to establish: (a) that the requirement to update an address change also applied to a certificate holder; and (b) a notification requirement for changes to other contact information, such as a change of name, email, or phone number; (4) to amend Section 6 to update the edition dates of the Renewal Application and Reinstatement Application; and (5) to update the material incorporated by reference to correct citations and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 33:030. Continuing education requirements for licensees and certificate holders.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify how to report continuing education credit hours for authorship of a scholarly publication if there is only one (1) author; (2) to amend Section 7 to establish that the board's decision to grant an extension or a waiver of continuing education requirements shall be based upon the verification document signed by a licensed physician; (3) to amend Section 8 to clarify what constitutes past due continuing education requirements; and (4) to amend Sections 1, 2, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Pastoral Counselors: Board

201 KAR 38:070. Renewal of licenses and continuing education. Brian Judy, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. Judy stated that this administrative regulation applied to licensed counselors with a faith-based education and background. Most had a master's degree in pastoral counseling or a related degree. Licensees were ordained and provided counseling with or without a fee.

Senator Kerr stated that this administrative regulation was the result of a bill that she sponsored. Pastoral counselors usually had extensive training, and this program allowed them to apply for applicable insurance coverage.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:122. Seasons, methods, and limits for small game. Steve Beam, wildlife division director, and David Wicker, general counsel, represented the department.

301 KAR 2:221 & E. Waterfowl seasons and limits.

In response to a question by Co-Chair Marzian, Mr. Beam stated that this administrative regulation and 301 KAR 2:222 were filed as emergency administrative regulations because the season was already in progress. These administrative regulations were based on the federal framework, which was not final until the season had already begun.

301 KAR 2:222 & E. Waterfowl hunting requirements on public lands.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality: New Source Standards

401 KAR 59:174. Stage II controls at gasoline dispensing facilities. Sean Alteri, director, represented the division.

In response to a question by Co-Chair Harris, Mr. Alteri stated that in 2000 U.S. EPA required new motor vehicles to have on-board emissions control; therefore, emissions control at individual gasoline dispensing devices was no longer as necessary.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7, 9, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Class D and Class C Felons

501 KAR 2:020. Definitions for 501 KAR Chapter 2. Amy Barker, assistant general counsel, represented the department. Renee Craddock, executive director, and Jamie Mosley, Laurel County jailer, represented the Kentucky Jailers' Association.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) include regional jails in the definition of "jail"; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 2:060. Procedures for housing of Class D and Class C felons.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, 8, 11, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Jail Standards for Full-service Facilities

501 KAR 3:010. Definitions for 501 KAR Chapter 3.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) revise the definition of "jail" to include regional jails; and (2) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:020. Administration; management.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:030. Fiscal management.

501 KAR 3:040. Personnel.

In response to a question by Senator Raque Adams, Ms. Barker stated that this administrative regulation impacted twenty (20) jails and required some increased staffing, which may increase costs. Additionally, thirteen (13) jails would be required to reorganize staffing schedules.

501 KAR 3:050. Physical Plant.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 8 and 9 to clarify waiver and exemption procedures; (2) to amend Section 12 to adjust the minimum: (a) number of bathrooms required for diversion holding areas; and (b) space requirements for multipurpose rooms in conformity with the Jail Construction, Expansion, and Renovation Guidelines; (3) to amend Section 15 and the construction guidelines to update references to the Kentucky Building Code; and (4) to amend Sections 1, 3, 6, 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:060. Security; control.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:070. Safety; emergency procedures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:080. Sanitation; hygiene.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:090. Medical services.

In response to a question by Co-Chair Marzian, Ms. Craddock stated that nurses could not prescribe, but could disburse, medication. The jail facility to which the prisoner was transferred would do a medical assessment upon the prisoner's arrival. Because that assessment may result in different prescription medication, the prescription medication limit deletion reduced waste. Mr. Mosley stated that this administrative regulation was being amended to delete the requirement that a three (3) day supply of prescription medication was required if a prisoner was transferred to another facility.

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

501 KAR 3:100. Food services.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:140. Prisoner rights.

In response to a question by Co-Chair Harris, Ms. Barker stated that a prisoner in transit from one (1) facility to another was not entitled to a phone call because of security risks. This did not affect phone call rights before or after the transit period. Ms. Craddock stated that this requirement conformed to the corresponding federal prohibition against a phone call during transit for security reasons. Transporters who transported prisoners for the state and federal government would then have one (1) standard requirement.

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

501 KAR 3:160. Training.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Jail Standards for Restricted Custody Center Facilities

501 KAR 7:010. Definitions for 501 KAR Chapter 7.

In response to a question by Co-Chair Harris, Mr. Mosley stated that 501 KAR Chapter 7 addressed restricted custody center facilities, which were a separate inmate housing area within a larger jail facility.

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

501 KAR 7:020. Administration; management.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 7:030. Fiscal management.

In response to a question by Co-Chair Harris, Ms. Barker stated that the audits were performed by the county auditor's office.

501 KAR 7:050. Physical plant.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 8, 9, and 11 to clarify waiver and exemption procedures; and (2) to amends Sections 1, 3, 6, 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 7:070. Safety; emergency procedures.

In response to a question by Senator Clark, Ms. Barker stated that a backup generator, while not necessarily available in the restricted custody area, may still be available in the larger jail facility. Mr. Mosley stated that, depending on the size of the jail facility, a backup generator may be available in the jail even if not specifically in the restricted custody area.

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

501 KAR 7:080. Sanitation; hygiene.

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

Jail Standards for Life Safety Facilities

501 KAR 13:010. Life safety issues.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 5, and 6 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 Public Health: Division of Maternal and Child Health: Maternal and Child Health

902 KAR 4:030. Newborn screening program. Laura Begin, regulation coordinator; Paula Goff, branch manager; and Jeremy Hart, MD, laboratory services division director, represented the division.

Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:200. Tuberculosis (TB) testing for residents in long-term care settings. Emily Anderson, TB program manager; Stephanie Brammer – Barnes, regulation coordinator; Robert Brawley, MD, infectious disease branch chief; and Maria Dalbey, TB program nurse, represented the division.

In response to questions by Co-Chair Harris, Dr. Brawley stated that these administrative regulations were being amended upon request by the division's long – term care facility partners. The changes were not significant, but the previous versions were not thoroughly enforced; therefore, facilities needed time to comply with these 2005 requirements from the Centers for Disease Control.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 12 to increase the time for compliance from ninety (90) days to 180 days after the effective date of the administrative regulation; and (3) to amend Section 14 to delete the TB-4, Kentucky Department for Public Health Tuberculosis (TB) Risk Assessment form. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 20:205. Tuberculosis (TB) testing for health care workers.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Audits and Investigations: Controlled Substances

902 KAR 55:015. Schedule I substances. Stephanie Brammer – Barnes, regulation coordinator; Stephanie Hold, acting inspector general; Jill Lee, pharmacist consultant; and John McGuire, manager, represented the division.

In response to a question by Senator Clark, Mr. McGuire stated that the division worked with law enforcement using national trends to develop these administrative regulations. Senator Clark stated that synthetic cannabinoids, unlike the natural counterpart, were dangerous and needed to be classified.

In response to a question by Co-Chair Harris, Mr. McGuire stated that controlled substances administrative regulations often lagged regarding synthetic drugs such as Flakka because synthetic drug makers could easily reformulate to avoid enforcement as a controlled substance. These administrative regulations were being reorganized to reduce synthetic drug makers' ability to avoid regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 3 to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 55:020 & E. Schedule II substances.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7: (a) for clarity; and (b) to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 55:025. Schedule III substances.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 55:030. Schedule IV substances.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 55:035. Schedule V substances.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 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.

The following administrative regulations were deferred to the February 8, 2016, meeting of the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Purchasing

200 KAR 5:021. Manual of policies and procedures.

GENERAL GOVERNMENT CABINET: Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

201 KAR 45:130. Continuing education.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

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

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

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

Division of Policy and Operations: Medicaid Services

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

907 KAR 1:835. Michelle P. waiver services and reimbursements.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies.

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

The Subcommittee adjourned at 1:40 p.m.

until February 8, 2016, at 2 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February Meeting

February 8, 2016

Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 8, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; Representative Linda Belcher.

Guests: Kathryn Gabhart, Executive Branch Ethics Commission; David Gordon, Steve Washing, Department of Revenue; Pat McGee, Finance and Administration Cabinet; Nathan Goldman, Paula Schenk, Board of Nursing; Nicole Biddle, Larry Disney, Real Estate Appraisers Board; Matt James, Board of Licensed Diabetes Educators; Jamie Eads, Marc Guilfoil; Horse Racing Commission; Deborah Anderson, Leslie Hoffmann, Stuart Owen, Department for Medicaid Services; David Allgood, Center for Accessible Living; Bill Dolan, Malicia Hitch, Protection and Advocacy; Mary Hass; Advocate; Joyce Lewis, Darlene Litteral, John Woodard, Professional Home Health Care Agency Inc., Reverend Steven Rudy, Parent Advocate; MaryLee Underwood, Commonwealth Council on Developmental Disabilities; Kelly Upchurch, Kentucky Association of Adult Day Care; Rich Wilcke, Kentucky Quarter Horse Racing Association; David Wickstrom, Independence Place, Russ Woodward, Kentucky Society of CPA's.

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

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Executive Branch Ethics Commission: Commission

9 KAR 1:025. Guidance on prohibited conduct and conflicts of interest. Kathryn Gabhart, executive director, represented the commission.

Department of Revenue: Forms

103 KAR 3:040 & E. Income tax forms manual. David Gordon, executive director of property valuation; Sherman Nave, director of corporation tax division; and Steve Washing, director of income tax division, represented the department.

Office of the Secretary: Purchasing

200 KAR 5:021. Manual of policies and procedures. Patrick McGee, attorney, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend the material incorporated by reference to: (a) correct citations; (b) make a technical correction; and (c) clarify procedures for obtaining a title opinion, a title insurance commitment, and a final title insurance policy. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Nursing: Board

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. Nathan Goldman, general counsel, and Paula Schenk, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 9, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure. Nicole Biddle, assistant attorney general, and Larry Disney, executive director, represented the board.

In response to questions by Co-Chair Harris, Mr. Disney stated that all appraisers completed the course once; however, in the past there was no need for appraisers to repeat the course. Due to federal changes, the board has amended this administrative regulation to provide for repeated courses. The initial federal statute governing this administrative regulation became effective in 1989. The board amends 201 KAR 30:040 each year to update the manual incorporated by reference to comply with federal changes.

201 KAR 30:040. Standards of practice.

Board of Licensed Diabetes Educators: Board

201 KAR 45:130. Continuing education. Matt James, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 5 to clarify disciplinary action for failure to comply with continuing education requirements. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:190. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund. Jamie Eads, director of incentives, and Marc Guilfoil, executive director, represented the commission. Rich Wilcke, sprint racing coordinator, Kentucky Quarter Horse Association, appeared in support of this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 4, 5, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Community Alternatives: Medicaid Services

907 KAR 1:160. Home and community based waiver services Version 1. Deborah Anderson, commissioner, Department for Aging and Independent Living; Leslie Hoffmann, director of behavioral health and community alternatives; and Stuart Owen, regulation coordinator, rep-resented the department. David Allgood, director of advocacy, Center for Accessible Living; MaryLee Underwood, advocate parent and executive director, Commonwealth Council on Developmental Disabilities; Kelly Upchurch, president, Kentucky Association of Adult Day Care; and David Wickstrom, executive director, Independence Place, appeared in support of these administrative regulations. Bill Dolan and Malicia Hitch, Department for Protection and Advocacy, appeared in support of these administrative regulations but requested confirmation of a specific issue. Mary Hass, advocate parent, and Reverend Steven Rudy, advocate parent, appeared in opposition to these administrative regulations. Joyce Lewis, president; Darlene Litteral, general counsel; and John Woodard, attorney, Professional Home Health Care Agency, Incorporated, appeared in opposition to these administrative regulations.

Mr. Allgood stated that the Center for Accessible Living supported these administrative regulations, which would greatly improve services for the physically disabled. The cabinet worked well with stakeholders and were welcoming of input during the development of these administrative regulations. The waiver program should save money in addition to helping people.

Mr. Wickstrom stated that Independence Place served thousands of people and supported these administrative regulations. These administrative regulations would help those with physical disabilities remain independent and stay in their communities, especially through funding construction modifications. Time allotment flexibility would help people grocery shop, obtain employment, etc. Services would not be lost under this waiver program.

Mr. Upchurch stated that the Kentucky Association of Adult Day Care ran 118 adult day centers across Kentucky. The new waiver pro-gram would prevent premature admission to long-term care centers, but did not prohibit a participant from opting for a long-term care center. These administrative regulations created a support system for care givers. The waiver program included independent assessments and case providers, while also helping to address provider gaps, especially in rural areas.

Ms. Underwood stated that the new waiver expands time allotments so that caregivers have more employment options. Transportation services were enhanced; transportation has been identified as the number one need. The independent assessment was a positive step. The cabinet offered many opportunities for stakeholder input. A portion of providers were supportive of these administrative regulations moving forward through the process.

Representative Belcher stated that she appreciated the many emails and input she received related to this new waiver program.

In response to a question by Co-Chair Marzian, Ms. Anderson stated that funding was accomplished through a provider tax increase and reallocation of funds.

Mr. Woodard stated that Professional Home Health Care Agency, Incorporated was opposed to these administrative regulations and believed that they violated KRS 205.5605, which required that each consumer be allocated a monthly budget allowance based on a needs as-assessment. He stated that these administrative regulations established a fixed fee with a cap, rather than a monthly budget based on a needs assessment. The new waiver program expanded the scope of options and reduced oversight that was previously built in to the budget de-termination process. Recipients may not receive the correct combination of services to prevent institutionalized care. Mr. Owen stated that the budgetary requirements of KRS 205.5605 were not restated in these administrative regulations because they were already established by statute, but that the budget requirements did apply and were being enforced. Each recipient received a monthly budget based on need.

In response to a question by Representative Belcher, Ms. Anderson stated that the new waiver was participant directed but was based on federal Labor Department requirements. If the state directly established the fee, the state would become the de facto employer; therefore, these administrative regulations established a cap per unit. The budget was then determined based on the rate and how many units were needed according to a needs assessment.

Ms. Hitch stated that the Department of Protection and Advocacy was concerned regarding continuity of speech, physical, and occupational therapy. Mr. Dolan, also with the Department of Protection and Advocacy, expressed the same concern and wanted verification that there would be no lapse or gap in therapy during the transition to the new waiver program. Mary Hass, parent advocate, expressed the same concerns. Ms. Anderson stated that there would not be a lapse. CMS would not grant waiver approval until all participants were fully transitioned; therefore, a lapse was not possible.

Reverend Steven Rudy stated that he was father and legal guardian of his daughter, Stephanie, who was a recipient of the home and community-based waiver program. Through the previous waiver program, Rev. Rudy was able to employ an agency to provide services to Stephanie at the rate of $19.00 per hour. Pursuant to the new waiver program, there would be a cap of $11.50 per hour, so that Stephanie would be unable to continue with her current agency at the current rate. Her care would be greatly compromised. A personal, in-home care agency could not be procured at the proposed cap. Additionally, the quality of individual employees procured at this rate were unlikely to possess the training, expertise, trustworthiness, and professionalism required. Because Stephanie had multiple disabilities, she could not be left alone for any length of time. Rev. Rudy asked the Subcommittee to reconsider the price cap.

In response to Rev. Rudy, Ms. Anderson stated that $11.50 was the net cap. Taxes would be added, making the cap effectively more like $13.50. The figure was developed by determining the average cost of a typical home health associate. The rate was not intended to cover the full cost of care directly from a company. Stephanie's situation may be better addressed by allowing a traditional provider subcontracted from a company.

Co-Chair Marzian stated that this new waiver program seemed to provide the most benefit to the most people and should move forward through the process. There were concerns about specific situations, but it was generally beneficial to keep people in communities as much as possible.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 3, 5, 6, 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A.; (2) to amend Section 1 to include in the definition of "ADHC services" a reference to the need for respite services; (3) to amend Section 3 to reference federal regulatory provisions establishing a longer document retention period; and (4) to amend Sections 6 and 10 to correct the names of two (2) forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:170. Reimbursement for home and community based waiver services Version 1.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Certified Provider Requirements

907 KAR 7:010. Home and community based waiver services Version 2.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 10, 12, and 14 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 3 to reference federal regulatory provisions establishing a longer document retention period; and (3) to amend Sections 6 and 14 to correct the names of two (2) forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 7:015. Reimbursement for home and community based waiver services Version 2.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with the agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the March 7, 2016, meeting of the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:030 & E. Property and severance forms manual. David Gordon, executive director of property valuation; Sherman Nave, director of corporation tax division; and Steve Washing, director of income tax division, represented the department. Russ Woodward, Kentucky Society of CPAs, appeared in opposition to this administrative regulation.

Mr. Woodward stated that the Kentucky Society of CPAs was concerned that a form change may actually result in a policy change with tax implications. The instructions for one (1) form included a statement that custom tax software was taxable, which would result in a tax increase. Mr. Gordon stated that this form change was a clarification and that all tax software, including custom tax software, has been considered taxable.

In response to questions by Senator Raque Adams, Mr. Woodward stated that the Kentucky Society of CPAs was just now bringing this concern because the issue was initially overlooked due to the volume of forms involved. A CPA member had told Mr. Woodward that this would result in a one (1) million dollar tax increase for a specific client.

In response to a question by Co-Chair Harris, Mr. Gordon stated that the department agreed to defer consideration of this administrative regulation to the March 7, 2016, meeting of the Subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

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

501 KAR 6:030. Kentucky State Reformatory.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission: Commission on Fire Protection Personnel Standards and Education

739 KAR 2:100. Volunteer firefighter requirements.

739 KAR 2:110. Acceptance of out of state and military training and service.

739 KAR 2:120. Notification of merger or splitting of volunteer fire districts.

739 KAR 2:130. Thermal vision grant application process.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

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

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

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

Division of Policy and Operations: Medicaid Services

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

907 KAR 1:835. Michelle P. waiver services and reimbursements.

Occupational, Physical, and Speech Therapy

907 KAR 8:005. Definitions for 907 KAR Chapter 8.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies.

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

The Subcommittee adjourned at 3:10 p.m. until March 7, 2016, at 1 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

February 9, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, February 9, 2016, at 4:15 PM, in Room 131 of the Capitol Annex. Representative Dennis Horlander, 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 Julian M. Carroll, and Paul Hornback; Representatives Brad Montell and Brent Yonts.

Guests: Charlie Harman, Amanda Ellis, Stephanie Robey, Amy Barnes, Darren Sammons, Ryan Green, and Jason Dunn.

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

A motion was made by Representative Yonts to approve Minutes of the January 12, 2016, meeting of the committee. Representative Montell 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. Senator Carroll 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. Senator Carroll 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. Senator Carroll 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. Senator Carroll seconded the motion, which passed without objection.

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

EDUCATION, DEPARTMENT OF:

Multi, 1600001112; Multi, 1600001116.

EDUCATIONAL TELEVISION, KENTUCKY:

Darlene Marie Grimm, 1600001081.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Barnette Bagley Architects, PSC, 1600000836; Vaughn and Melton, 1600000983; Facility Commissioning Group, 1600001036; Evergreene Painting Studios, Inc., 1600001101.

FISH & WILDLIFE, DEPARTMENT OF:

Copperhead Environmental Consulting, Inc., 1600001031.

GOVERNOR, OFFICE OF THE:

KWH Law, PLLC, 1600001111.

JUSTICE CABINET:

Multi, 1600000895.

KENTUCKY LOTTERY CORPORATION:

Pomeroy IT Solutions, Inc., 16-16-030.

MILITARY AFFAIRS, DEPARTMENT OF:

Federal Resources Supply Company, 1600000740; Joseph Charles Meischke Jr., 1600001142.

MOREHEAD STATE UNIVERSITY:

Dr. Brenda Wilburn, 16-050.

MURRAY STATE UNIVERSITY:

Goldberg Simpson, LLC, 012-16.

STATE POLICE, DEPARTMENT OF:

Steve Walker, 1600001083; James A. Mitchell, 1600001084.

TRANSPORTATION CABINET:

CDM Smith, Inc., 1600001119.

UNIVERSITY OF KENTUCKY:

De Leon & Primmer, A161140; Bell Engineering, A161150; Performance Training Academy, LLC, K16-176; Advanced Fiber Technologies, K16-177; Scientific Certification Systems, K16-178; Stamats, Inc., K16-179; Trifecta, K16-180

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:

Goldberg Simpson, LLC, 1400001816.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND

INTELLECTUAL DISABILITIES:

AMS Temporaries, Inc., 1500001706; SHC Services, Inc., 1500001711.

EASTERN KENTUCKY UNIVERSITY:

Stoll Kennon Ogden, PLLC, 16-166.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Paladin, Inc., 0600003090; Omni Architects, 0800011282; Mactec Engineering & Consulting, 1000002150; EOP Architects, PSC, 1400000675; Sherman Carter Barnhart, 1500001025; Patrick D. Murphy Company, Inc., 1500001237; Ross Tarrant Architects, Inc., 1500001377; CMTA, Inc., 1500002374; Stantec Consulting Services, Inc., 1500002881; Sustainable Streams, LLC, 1600000034; CMTA, Inc. Consulting Engineering, 1600000828; Ross Tarrant Architects, Inc., C-06082726.

KENTUCKY BOARD OF PROSTHETICS, ORTHOTICS AND PEDORTHICS:

Dennis Lesch, 1600000648.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Hanna Resource Group, LLC, 640.

NORTHERN KENTUCKY UNIVERSITY:

Multi, 2016-666-1.

STATE POLICE, DEPARTMENT OF:

Powerphone, Inc., 1600000415.

TRANSPORTATION CABINET:

HNTB Corporation, 0700004077; EA Partners, PLC, 1200000960; HMB Professional Engineers, Inc., 1200000964; J M Crawford & Associates, Inc., 1300000071; Strand Associates, Inc., 1300001849; CDM Smith, Inc., 1400000571; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1400000810; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1400000810; Stantec Consulting Services, Inc., 1400000824; Tim Long, MD, PSC, 1400002434; Family Medicine Associates of Flemingsburg, 1400003394; Construction Estimating Institute of America, Inc., 1500001251; Intequal-Duncan Appraisal, 1500001389; Presnell Associates, Inc. Qk4, C-99005358-4.

UNIVERSITY OF KENTUCKY:

Sasaki Associates, Inc., A131070; THP Limited, Inc., A131110; Ross Tarrant, A141200; Omni Architects, A141210; GBBN, A151180; Artekna Design, A151260; HR Focal Point, LLC, K15-207.

UNIVERSITY OF LOUISVILLE:

Multi, 15-012.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

CABINET FOR HEALTH AND FAMILY SERVICES:

University of Louisville Foundation, Inc., 1600001085.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Friends of Clarks River National Wildlife Refuge, 1600000835; Morehead State University, 1600001087.

EDUCATION, DEPARTMENT OF:

Advanced - Kentucky, 1600000501; Green River Regional Education, 1600000793; Kentucky Educational Development Corporation, 1600000860; Northern Kentucky Cooperative for Educational Services, Inc., 1600000861; West Kentucky Education Cooperative, 1600000862; Washington County Board of Education, 1600001050; Jessamine County Board of Education, 1600001051; Breckinridge County Board of Education, 1600001073.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1600000964.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of West Point, 1600001187.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001218; Multi, 1500001614.

CORRECTIONS, DEPARTMENT OF:

Mason County Detention Center, 1500001644; Oldham County Public Library, 1500001911.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentucky Housing Corporation, 1400001494; Community Action Kentucky, Inc., 1500001313; Community Action Kentucky, Inc., 1500001313; Kentucky Community and Technical College System, 1500001999.

DEPARTMENT FOR PUBLIC HEALTH:

Western Michigan University, 1500001903.

EDUCATION, DEPARTMENT OF:

Washington County Board of Education, 1500002239; KCTCS, 1500002484; Eastern Kentucky University, 1500002514; Western Kentucky University, 1500002515.

EDUCATION, OFFICE OF THE SECRETARY:

Eastern Kentucky University, 1600000015.

INFRASTRUCTURE AUTHORITY:

Knott County Fiscal Court, 1200002053; Perry County Fiscal Court, 1300001501.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Hopkins County Fiscal Court, 1500000563; Hopkins County Fiscal Court, 1500000611; Hopkins County Fiscal Court, 1500000615; Harlan County Fiscal Court, 1500000678; Harlan County Fiscal Court, 1500000679; Harlan County Fiscal Court, 1500000682; Harlan County Fiscal Court, 1500000683; Harlan County Fiscal Court, 1500000684; Harlan County Fiscal Court, 1500000685; Harlan County Fiscal Court, 1500000686; Harlan County Fiscal Court, 1500000687; Harlan County Fiscal Court, 1500000690; Harlan County Fiscal Court, 1500000691; Harlan County Fiscal Court, 1500000694; Harlan County Fiscal Court, 1500000695; Harlan County Fiscal Court, 1500000697; Harlan County Fiscal Court, 1500000699; Harlan County Fiscal Court, 1500000701; Harlan County Fiscal Court, 1500000704; Harlan County Fiscal Court, 1500000712; Harlan County Fiscal Court, 1500000714; Harlan County Fiscal Court, 1500000715; Harlan County Fiscal Court, 1500000716; Harlan County Fiscal Court, 1500000717; Harlan County Fiscal Court, 1500000719; Harlan County Fiscal Court, 1500000721; Harlan County Fiscal Court, 1500000724; Harlan County Fiscal Court, 1500000726; Harlan County Fiscal Court, 1500000727; Harlan County Fiscal Court, 1500000728; Harlan County Fiscal Court, 1500000729; Hopkins County Fiscal Court, 1500000732; Knox County Fiscal Court, 1500000746; Hopkins County Fiscal Court, 1500000829; Hopkins County Fiscal Court, 1500000830; Hopkins County Fiscal Court, 1500000832; Knox County Fiscal Court, 1500000894; Hopkins County Fiscal Court, 1500000913; Hopkins County Fiscal Court, 1500000938; Knox County Fiscal Court, 1500001010; Hopkins County Fiscal Court, 1500001109; Knox County Fiscal Court, 1500001114; Menifee County Fiscal Court, 1500001381; Knox County Fiscal Court, 1500001571; Knox County Fiscal Court, 1500001589; Hopkins County Fiscal Court, 1500001598; Webster County Fiscal Court, 1500001606; Knox County Fiscal Court, 1500001811; Hopkins County Fiscal Court, 1500001923; Knox County Fiscal Court, 1600000005.

TRANSPORTATION CABINET:

Kentucky Transportation Center, 1400001561; Kentucky Heritage Council, 1600000562.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

UNIVERSITY OF KENTUCKY:

Fourth Quadrant, Inc. d/b/a Up & Up, K16-181; NetMediaOne, LLC d/b/a Able Engine, K16-182; Xstreme Media d/b/a Mightily, K16-183; Super Soul, LLC, K16-184; iFactory an RDW Group, K16-185. A motion was made by Representative Yonts to defer the contracts to the March meeting of the committee. Representative Montell seconded the motion, which passed.

UNIVERSITY OF LOUISVILLE:

Siemens Industry, Inc. / Building

Technologies Division, 16-040. A motion was made by Representative Yonts to defer the contract to the March meeting of the committee. Representative Montell seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACT FOR $10K AND UNDER WAS SELECTED FOR FURTHER REVIEW:

UNIVERSITY OF KENTUCKY:

NetMediaOne, LLC d/b/a Able Engine, 8800002051. A motion was made by Representative Yonts to defer the contract to the March meeting of the committee. Representative Montell seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF:

Collaborative Center for Literacy Development, 1600000921. Charlie Harman and Amanda Ellis discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

MILITARY AFFAIRS, DEPARTMENT OF:

Louisville & Jefferson MSD, 1600000650; Louisville & Jefferson MSD, 1600000708. Stephanie Robey discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

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

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Harlan County Fiscal Court, 1500000698; Harlan County Fiscal Court, 1500000700; Harlan County Fiscal Court, 1500000702; Harlan County Fiscal Court, 1500000703; Harlan County Fiscal Court, 1500000708; Harlan County Fiscal Court, 1500000730; Henderson County Fiscal Court, 1600000393; Henderson County Fiscal Court, 1600000393; Knott County Fiscal Court, 1600000586. Amy Barnes and Darren Sammons discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

WORKFORCE INVESTMENT, OFFICE OF:

Cumberlands SDA, 1400002819; Eastern Kentucky C.E.P., Inc., 1400002820; Green River Area Development, 1400002821; Northern Kentucky Area Development District, 1400002824; Pennyrile Area Development District, 1400002826. Ryan Green and Jason Dunn discussed the contracts with the committee. A motion was made by Senator Hornback to defer the contracts to the March meeting of the committee. Senator Carroll seconded the motion, which passed.

EXEMPTION REQUESTS:

DEPARTMENT FOR LOCAL GOVERNMENT:

The Department for Local Government requested an exemption from the biennium contract period restrictions for various Coal Severance Grants. A motion was made by Representative Yonts to grant the request to June 30, 2018. Senator Carroll seconded the motion, which passed without objection.

KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION:

The Kentucky Council on Postsecondary Education requested an exemption from the biennium contract period restrictions for various agreements; 100% federally funded. A motion was made by Representative Yonts to grant the request to September 30, 2018. Senator Carroll seconded the motion, which passed without objection.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET OFFICE OF VOCATIONAL REHABILITATION:

The Education and Workforce Development Cabinet Office of Vocational Rehabilitation requested an exemption from the biennium contract restrictions for Federal grant agreements between OVR and a provider of Motivational Interviewing Training. A motion was made by Representative Yonts to grant the request to September 30, 2016. Senator Carroll seconded the motion, which passed without objection.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET OFFICE OF VOCATIONAL REHABILITATION:

The Education and Workforce Development Cabinet Office of Vocational Rehabilitation requested an exemption from the biennium contract restrictions for Federal grant agreements issued to various sub recipients providing vocational rehabilitation services, including, but not limited to, sub recipients that will provide direct rehabilitation engineering services to OVR consumers and sub recipients that will continue and further develop Assistive Technology resource centers. A motion was made by Representative Yonts to grant the request to September 30, 2018. Senator Carroll seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 4:49 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes of the 2nd Meeting of the 2016 Interim

February 2, 2016

Call to Order and Roll Call

The 2nd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Tuesday, February 2, 2016, upon adjournment of both Chambers in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Paul Hornback, Dennis Parrett, Robin Webb, Whitney Westerfield; Representatives Mike Denham, Tom McKee, Terry Mills, Jonathan Shell, and James Tipton.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy, Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy and Luther Hughes, Project Manager, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley, Kelly Ludwig, Sara Saxson-Lyle, Marielle Manning and Susan Spoonamore, Committee Assistant.

Upon motion made by Representative Denham and seconded by Representative Mills, the January 12, 2016, minutes were approved, upon voice vote and without objection.

Governor's Office of Agricultural Policy

Mr. Warren Beeler, Executive Director, Mr. Bill McCloskey, Director of Financial Services, and Mr. Luther Hughes, Project Manager, Governor's Office of Agricultural Policy, presented the projects receiving Agricultural Development Board approval at its January 2016 meeting. Those included a farmers market pavilion, next generation farmer support program, On-Farm Investments, Shared-use Programs, and major statewide or regional projects.

The GOAP representatives responded to committee members' questions about the Shared-use funding commitments.

The committee received reports on two regional projects – Washington County Cattleman Association, Inc., approved by the board for $109,855 in Washington County funds to conduct a next generation farmer cost-share program, and the City of Pikeville, approved for $250,000 in state funds to construct a farmers market pavilion.

The GOAP officials responded to committee members' questions about the Washington County project, such as the funding arrangement.

Responding to Representative Stone, the

GOAP officials explained that a 50/50 match is required for the participating farmer and the fund. For example, the participating farmer must spend $10,000 to receive $5,000 back.

The project included a mentoring aspect. Responding to Representative Tipton, the GOAP officials indicated that similar mentoring programs had been done in previous years. GOAP officials also had suggested there needed to be more substance in the program for beginner farmers and that the University of Kentucky was involved in teaching four specific classes.

The GOAP officials provided additional details on the city of Pikeville project, such as the type and location of pavilion planned and the scope of local input.

Responding to Representative McKee, the GOAP officials discussed the usual 50 percent funding for similar projects. GOAP officials mentioned commitments from other counties for the project.

The GOAP representatives described one funding denial, Whispering Hollow Farms, LLC, turned down for $45,074 in LaRue County funds to establish a horse boarding and trail camp park to promote outdoor recreation. Concerns about lack of farmer impact and impact on agricultural economy were mentioned as reasons for the denial. In response to Representative Denham, Mr. McCloskey explained that there is no GOAP policy on "horse projects" but that people can apply for CAIP funds and Kentucky Agriculture Finance loan. Mr. McCloskey said the GOAP did a grant for an operation in Clark County.

In response to Senator Webb, Mr. Hughes explained that GOAP staff often ponder how to reach out to those who do not reach out to them and using horses as a means of diversification was important to consider. Mr. Beeler also expressed it was a good time to reflect on the CAIP application process.

Representative Mills commented that therapy horses can be beneficial for autistic children through the use of Agriculture Development funds and can bring diversity to farmers.

Co-Chair Stone welcomed Representative Tipton to his first meeting with the Tobacco Settlement Fund Oversight Committee.

Representative Denham commented on the loss of the Bluegrass Stockyard and asked for a resolution from the committee. Senator Webb moved that the resolution be reported with favorable expression. Representative Mills seconded the motion. The motion carried by unanimous voice vote.

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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the March Meeting

March 7, 2016

Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 7, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams and Alice Forgy Kerr; Representatives Linda Belcher and Tommy Turner.

Guests: Beau Barnes, Teachers' Retirement System; Jennifer Jones, Katherine Rupinen, Retirement Systems; Cheryl Lalonde, Board of Pharmacy; Rhonda Richardson, Real Estate Commission; Nathan Goldman, Board of Nursing; Nicole Biddle, Sienna Newman, Prosthetics, Orthotics & Pedorthics Board; Karen Waldrop, David Wicker, Department of Fish & Wildlife Resources; Michael Kurtsinger, Ann-Tyler Morgan, Fire Commission.

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

The Administrative Regulation Review Subcommittee met on Monday, March 7, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System: General Rules

102 KAR 1:060. Refunds. Beau Barnes, deputy executive secretary and general counsel, represented the retirement system.

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 to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 2 and 4: (a) to comply with the drafting requirements of KRS Chapter 13A; and (b) for clarity. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:070. Application for retirement.

In response to a question by Co-Chair Harris, Mr. Barnes stated that, prior to the general retirement of the baby boomer generation, fewer teachers retired at any given time; therefore, the retirement system was able to retroactively approve a retirement application in an emergency situation. Because the volume of retirees was so much greater, the retirement system was no longer able to retroactively approve retirement applications.

102 KAR 1:320. Qualified domestic relations orders.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 3 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: Forms

103 KAR 3:030 & E. Property and severance forms manual. David Gordon, executive director, Office of Property Valuation, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to update the edition dates of Revenue Forms 62A500(P), 62A500, 62A500-A, 62A500-C, 62A500-L, 62A500-M1, 62A500-S1, and 62A500-W: (a) to comply with KRS Chapter 13A; and (b) for clarity; and (2) to amend instructional Revenue Form 62A500(P) to delete language that was added to clarify the types of software taxed to resolve the concerns of the Kentucky Society of CPAs. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Retirement Systems: General Rules

105 KAR 1:370. Kentucky Retirement Systems personnel policies. Jennifer Jones, assistant general counsel, and Katherine Rupinen, assistant general counsel, represented the retirement systems.

In response to questions by Co-Chair Harris, Ms. Rupinen stated that, under the previous version of this administrative regulation, compensatory time was only allotted for working or driving hours pertaining to travel-related work. This administrative regulation was amended to authorize compensatory time for an employee intending to be efficient with travel, for example an employee who accepted a late flight in order to be at work on time the next day.

In response to a question by Representative Belcher, Ms. Rupinen stated that an additional spousal benefit was added for compliance with KRS Chapter 18A, regarding spouses deployed for military service.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF). Cheryl LaLonde, general counsel, represented the board.

In response to questions by Co-Chair

Harris, Ms. LaLonde stated that most long-term care facilities did not have in-house pharmacies. The medication limits established in this administrative regulation were for emergency doses; therefore, the limit of six (6) individual doses of thirty (30) different noncontrolled substances was adequate.

Real Estate Commission: Commission

201 KAR 11:350. Seller's disclosure of property conditions form. Rhonda Richardson, general counsel, represented the commission.

In response to questions by Co-Chair Harris, Ms. Richardson stated that this was the first time that the term "single family residential real estate dwelling" was defined in 201 KAR Chapter 11. Previously, stakeholders had a historical understanding of what this term meant, but it was not codified.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4 and the Seller's Disclosure of Property Condition form to change the order of initialing so that the seller's initials appear before the buyer's initials. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements. Nathan Goldman, general counsel, represented the board.

In response to a question by Co-Chair Harris, Mr. Goldman stated that requirements related to sexual assault nurse examiner standards were changed to be competency based, rather than duration based. Nurse examiners were required to achieve proficiency, regardless of how long it may take.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Prosthetics, Orthotics, and Pedorthics: Board

201 KAR 44:050. Per diem of board members. Nicole Biddle, assistant attorney general, and Sienna Newman, chair, represented the board.

In response to a question by Co-Chair Marzian, Ms. Newman stated that, prior to the amendment to this administrative regulation, board members served voluntarily without compensation.

201 KAR 44:080. Renewals.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, and 5 and the application forms to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:090. Requirements for licensure as an orthotist, prosthetist, orthotist-prosthetist, pedorthist, or orthotic fitter on or after January 1, 2013.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4 and the application form to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to establish that an orthotic fitter shall submit proof of completion of an orthotic fitter education program approved by the American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC). Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:100. Inactive status.

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

201 KAR 44:110. Licensure by endorsement.

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.

201 KAR 44:120. Post residency registration.

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

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:132. Elk quota hunts, elk depredation permits, landowner cooperator permits, and voucher cooperator permits. Karen Waldrop, deputy commissioner, and David Wicker, general counsel, represented the department.

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

301 KAR 2:178. Deer hunting on wildlife management areas, state parks, other public lands, and federally controlled areas.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission: Commission on Fire Protection Personnel Standards and Education

739 KAR 2:100. Volunteer firefighter requirements. Michael Kurtsinger, division director, and Anne-Tyler Morgan, counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the TITLE and Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 2 to clarify the specific conditions for compliance with statutory requirements, such as what constitutes a firefighter of sobriety and integrity. Without objection, and with agreement of the agency, the amendments were approved.

739 KAR 2:110. Acceptance of out of state and military training and service.

In response to a question by Representative Belcher, Ms. Morgan stated that the commission's authorizing statutes did not provide for penalties. Staff stated that there was a statutory penalty for application fraud.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to make technical corrections; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (3) 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; (4) to amend Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (5) to amend Section 2 to clarify the protocol for ensuring appropriate training and experience for firefighters who received firefighter training in the U.S. Armed Forces; (6) to amend Section 2 to delete penalty requirements that did not seem to be specifically authorized by statute; and (7) to revise and add material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

739 KAR 2:120. Notification of merger or splitting of volunteer fire districts.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to make technical corrections; (2) to amend the RELATES TO paragraph to add a citation; (3) to amend Section 2 to: (a) insert items omitted from the list of documents departments shall provide; and (b) comply with the drafting requirements of KRS Chapter 13A; and (4) to amend Section 3 to revise the form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

739 KAR 2:130. Thermal vision grant application process.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the RELATES TO paragraph to add a citation; (3) to amend Section 2 to: (a) clarify required signatures on the grant application; and (b) establish thermal imaging device providers previously listed in the grant application; (4) to amend Section 3 to revise the material incorporated by reference; and (5) to correct the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the April 11, 2016, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Board of Nursing: Board

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

201 KAR 20:271. Repeal of 201 KAR 20:270 and 201 KAR 20:290.

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

201 KAR 20:350. Educational facilities and resources for prelicensure registered nurse and practical nurse programs.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

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

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

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

Division of Policy and Operations: Medicaid Services

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

907 KAR 1:835. Michelle P. waiver services and reimbursements.

Occupational, Physical, and Speech Therapy

907 KAR 8:005. Definitions for 907 KAR Chapter 8.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies.

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

OTHER BUSINESS:

Co-Chair Marzian stated that the April ARRS meeting would be tentatively scheduled for April 11, 2016, at 1 p.m., which is currently the first day legislators are back in session following the veto period. However, if the General Assembly's session calendar is amended, the ARRS meeting date will be moved from April 11 to the same day that the General Assembly convenes for session after the veto period.

The Subcommittee adjourned at 1:30 p.m. until April 11, 2016, at 1 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 2nd Meeting of the 2016 Interim

February 22, 2016

Call to Order and Roll Call

The 2nd meeting of the Public Pension Oversight Board was held on Monday, February 22, 2016, at 12:00 PM, in Room 169 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; John Chilton, Robert Damron, Mike Harmon, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Representative Arnold Simpson.

LRC Staff: Brad Gross, Bo Cracraft, Jennifer Black Hans, and Maurya Allen.

Chairman Yonts directed members' attention to the scheduled meeting on Monday, March 28, 2016, explaining that it may have to be adjusted due to session.

Approval of Minutes

Senator Bowen moved that the minutes of the January 25, 2016, meeting be approved. Ms. Stemler seconded the motion, and the minutes were approved without objection.

Governor's Budget for KRS/KTRS & Proposed Audit Update (handout)

Mr. John Chilton, State Budget Director, discussed the Governor's view of the pension problems and plans to address them. When the Governor took office, there were several problems: a $500,000,000 budget shortfall; underfunded and underperforming pension systems; and the end of the federal government's 100 percent financing of Medicaid expansion. The state's financial situation was analyzed, and the possible alternatives that were considered were increasing taxes, decreasing spending, waiting, or borrowing. The course of action taken was to decrease spending, and the objective is to have long term fiscal stability.

Mr. Chilton said two of the Governor's priorities are strengthening Kentucky's financial foundation and keeping the commitment to all public servants. Pension costs have increased from 5.4 percent to 12.4 percent of the budget. Medicaid has increased from 12.7 percent to 18.2 percent of the budget, and the remaining general fund expenditures have decreased 12.4 percent over the last 10 years.

For fiscal year 2017, the Governor is proposing an additional $827,000,000 in spending, 81 percent of which will fund pensions and Medicaid. For fiscal year 2018, the proposal is $1,000,000,000 of additional spending compared to fiscal year 2016, of which 83 percent will fund pensions and Medicaid. To accomplish the objectives, the Governor has imposed a 4.5 percent spending reduction for fiscal year 2016 and a nine percent reduction to baseline spending in fiscal year 2017 and fiscal year 2018. The Commonwealth would save about $650,000,000 over a 30 month period due to these reductions.

Mr. Chilton said that the Governor's plan is not budgeting to zero. Budgeting to zero would mean the budget would anticipate spending every dollar that would be received as projected by the Consensus Forecasting Group. The Governor implemented a buffer, so that if the receipts turn out to be less than the amount projected by the Consensus Forecasting Group, the budgeted amounts would not exceed revenues. If revenues exceed the Governor's lowered threshold, half would go to pensions and half to the rainy day fund. Of the pension amount, half would go to the Kentucky Teachers' Retirement System (KTRS) and half to Kentucky Employees Retirement System (KERS). In dollars, this means appropriations of an extra $32,000,000 to KTRS and KERS in fiscal year 2017 and $35,800,000 in fiscal year 2018.

The Governor is saving for a down payment on Kentucky's future. The unfunded liability in aggregate on all the pension funds is over $30,000,000,000. The rainy day fund under the Governor's proposal would grow to a balance of $523,000,000, and additionally there is $500,000,000 reserved in the permanent fund, which is over a billion dollars that is available to address the pension problem.

Another way to look at the amount of unfunded liability of $30,000,000,000 is the value is three times the entire $10,000,000,000 general fund budget. The unfunded pension liabilities adversely affect state government and hundreds of other organizations throughout the state. The current budgeted contributions to KERS provides $628,000,000. The Governor is budgeting an additional $132,000,000 and $154,000,000 for FY 2017 and 2018 to cover the increased actuarial required contribution (ARC) and is also providing a general fund appropriation, sometimes called ARC+, of $44,668,000 in each of the fiscal years. Including the contingent appropriation of $32,000,000 and $35,000,000 for each fiscal year results in $1,700,000,000 going into the KERS over the next two years. This is $208,718,000 more in fiscal year 2017 and $234,480,500 more in fiscal year 2018, as compared to fiscal year 2016.

For KTRS, the amount that was contributed for 2016 is $665,500,000. The appropriation for the unfunded ARC is $300,054,900 and $291,465,200 for fiscal years 2017 and 2018 respectively. In addition, the SEEK formula results in $8,400,000 and $17,000,000 additional money for KTRS for fiscal year 2017 and 2018. Combined with the contingent appropriation, possible funding for KTRS over the biennium could reach $2,000,000,000. This is an increase in funding in fiscal year 2017 and 2018 of $340,504,900 and $344,277,700, respectively when compared to fiscal year 2016.

Summarizing the Governor's commitment, the possible pension funding is more than $1.8 billion in each of the two fiscal years compared to $1.3 billion in 2016, which is an increase of more than $1.1 billion committed to the pension funds in this budget. The Governor has also called for an audit to determine a recommendation for solving the pension plan crisis by determining the level of unfunded liabilities using consistent assumptions for each of the plans and to identify options for the future. The actuarial reports, audit reports, and financial reports have been done for many years, but the assumptions that are used in connection with the various plans are not the same. Those are determined by the boards of each of the plans.

Another feature of the Governor's proposal would set aside $500,000,000 in a permanent fund. That money would come from excess funds that exist in the Kentucky Employees Health Insurance fund, which is projected to have a surplus. The use of the permanent fund will be limited to shoring up the ailing pension systems. The rainy day fund would also possibly reach $524,000,000. Mr. Chilton stated the two funds will reserve over $1,000,000,000 to address the various financial issues that the state faces, and Governor Bevin is opposed to using any of the $1,000,000,000 to support general fund operations.

Mr. Chilton discussed items not in the budget, including:

plans for tax reform. The Governor has proposed no changes for Kentucky's tax system and wants to give careful consideration to tax reform and plan for some time after the budget is adopted in April;

plans for pensions;

plans for Medicaid. The budget contains funds to operate Medicaid as it currently as it stands;

performance funding details;

analysis of tax credits and incentives;

attracting new businesses and business expansion; and

long-term plans for Kentucky parks.

Senator Bowen asked for an example relative to budgeting to zero. Mr. Chilton stated the economists predict what revenues will be for the next biennium. The Governor's budget does not include expenditures for 100 percent of that amount. He is budgeting below that amount to provide a buffer if the revenues do not develop as they anticipate.

Senator Higdon commended the Governor's plan of going forth with an outside audit and that it would be fortunate to meet the commitment of doing the ARC +.

Senator Neal asked if an analysis took place when the Governor put his budget together and if there were any adverse impacts to the programs that were cut. Mr. Chilton answered the 4.5 percent and nine percent are applied to non-exempt agencies and programs. A little more than half were exempt so the nine percent would be applied to non-exempt agencies and programs. The exact areas in which the cuts will be made will be at the discretion of the Cabinet Secretaries to know which areas should be cut and to make a recommendation.

Senator Neal asked if the universities should be alarmed when they begin these cuts that will be devastating to their operations and the impact on the students, impact on maintaining carrying out progression plans on behalf of Kentucky, and economic development ramifications. Mr. Chilton said that with the amount of funding the universities get from the state under the Governor's proposal, which have been reduced by 4.5 percent to nine percent, they should be alarmed and take action. He does not believe any university gets over 50 percent of their funding from the state and the amount being cut is the nine percent of what the state is providing. The effect on the budget is not nine percent, but rather much lower.

Senator Neal asked if other agencies that are also subject to that cut should be alarmed as well. Mr. Chilton answered that they need to take action to accomplish the decrease in spending. The amount of liability that needs to be paid at some point is huge so all government agencies need to take action to reduce spending in order to deal with the financial problems.

Senator Neal appreciated Mr. Chilton being forthcoming and commented that there should be alarm about the pension liability. Historically, no action has been taken effectively with tax reform which should be the primary concern to project into the future.

Representative Linder commended the Governor on his budget and used the credit card debt analogy, of paying more than the minimum, to come to terms of understanding. Representative Linder asked if in the future, the fund goes to zero, and pension liabilities are coming out of the general fund, what type of cuts overall would that be on state government. Mr. Chilton answered that the SPRS fund is getting close and that there are no projections. If benefits start being paid out of the general fund each year the squeeze will be huge. Using the credit card analogy, the ARC is computed of two components. One is normal cost which is the cost of pensions associated with services provided during the year such as projected earnings, projected payroll, and increases in payroll. If the normal cost is not paid each year, the amount of the normal cost goes up. If normal costs are not paid, that additional amount will not go on a credit card that is paid off every seven to eight years, it goes on a mortgage that is paid over 30 years and continues to grow with very little headway.

Representative Linder commented that he thought it a fair assessment that the nine percent over the next two years may help offset a huge cut in the future years. If it goes back to paying benefits out of the general fund, that would be more than a nine percent cut.

Representative Simpson commented that he applauded the Governor's ARC + funding relative to pensions. In many instances the uncertainty that lies ahead is that last component, the investment income, and how much will be made or lost. Representative Simpson asked if Governor had thought about the current composition of the pension board and any of the proposed legislative changes that have filed. Mr.

Chilton said he had not, and that part of what the audit will encompass is a performance audit on the investments and looking back to determine if the state had received a reasonable return and what could be done in the future.

Representative Simpson stated in looking at other states and their returns Kentucky has not really done as well as some of the sister states. He asked if any of the proposals were being offered by virtue of this committee. Mr. Chilton answered that would be part of what the audit considers.

Representative Simpson asked if any proposals would be looked at before session ended and that it would be appreciated if Mr. Chilton could communicate his support or opposition to the proposals that have resulted from this committee. Mr. Chilton answered that he would, but it would require analysis before he can make a recommendation.

Investment Expense Disclosure & Trends (handout)

Bo Cracraft, Legislative Research Commission staff, provided a review of what is occurring in the industry centering on investment expenses and some of the challenges pension plans are facing. As an introduction, Mr. Cracraft spoke about the focus on investment fees and the task of trying to do that on an annual basis. Within the semi-annual investment reviews, staff has tried to incorporate what funds are reporting as investment expense and also to understand what is leading and causing those fee totals. He stated the discussion began more than a decade ago with several pay to play concerns and lawsuits that were filed outside the state of Kentucky. More recently, the interest has shifted to trying to make relative judgments on what plans are paying specifically within Kentucky, what expenses Kentucky is incurring, and what the costs are to run the investment programs. The demand for transparency has raised attention both within Kentucky and nationally. The last two regular sessions have both included a proposed legislation that would speak directly to disclosure of fees.

During the 2015 Regular Session, House Bill 49 was proposed, but not passed. It would have required additional disclosure then what is currently being done at the state level. It dug down into what is called fund to fund managers. This session we currently have Senate Bill 2, which has been filed and is under consideration. It would do much of the same as House Bill 49 with regards to fees, but it takes another step and starts to incorporate performance-related items, specifically carried interest. Outside of Kentucky, several states, including South Carolina and New Jersey have come under some media attention with regards to fees, specifically with alternative assets. South Carolina, which will be noted later, has been pretty active within this space.

The state of Kentucky is dealing with multi-billion dollar funds. There is no standard on reporting fees at a state level, and it is very difficult to understand what plans are spending and how they are spending.

GASB Statement 67, which was a revision of GASB Statement 25, basically dictates that states should report investment expenses that can be separable from investment income or administrative expenses. It places the onus on the state plans and sponsors to determine what can or cannot be separated from income. Specifically it relates to alternative assets. One issue is the fact that GASB Statement 25 was initially written in 1994, when the average plan had about 95 percent of their assets in U.S. stocks and bonds, which are easily priced securities. With the recent rise of alternative assets and other alternative strategies, more complicated assets and investment structures have also brought more complicated terms and fee agreements. Mr. Cracraft stated that it makes relative comparison difficult and, even within Kentucky, the two larger plans are doing things slightly different.

The Legislative Research Commission (LRC) staff calculated peer group provided expense numbers to the board in January, which included information from 35 funds by just pulling publicly available annual reports. The statements of net plan assets for each state includes a line item for investment expense, which is the number that is used to calculate this peer group. The average fee is 41 basis points, but if you look at the individual states it ranges from a low of 7 basis points to a high of 139 basis points. This is about a 130 plus basis point difference between what one state may report and what another state may report. In Kentucky there is a wide range of results due to the way assets are allocated, but also due to the way expenses are reported. Mr. Cracraft stated the Kentucky Retirement Systems (KRS) staff adjusted how they reported fees in 2015 and their reported fees were 69 basis points, or more than $81,000,000. This was up from 40 basis points in fiscal year 2014 and $46,000,000 of the adjustment was due to a change in reporting some additional private equity and absolute return performance fees.

Mr. Cracraft explained what the different asset classes and asset types include when it comes to fees and what is really impacting a plan's fees. Asset allocations that consist of stocks and bonds is the least expensive plan due to having almost no alternative. These assets tend to have a lower expense ratio and largely do not have performance fees. Basically, it is paying a management fee that is based on a market value and it is directly invoiced based on the current market value at the end of each quarter. Smaller impacts would be internal costs. With internal costs, some plans, even within Kentucky, will report investment salaries, operational expenses, compliance, or operations as an investment fee instead of an administrative cost. With utilization of internal versus external, Georgia is a good example of a plan who does a lot of internal management and not much alternative assets and that helps reduce the amount of fees that are being paid to external vendors. With fund to funds, most plans in this industry are not reporting underlying fund to fund fees within investment expense. What is generally reported is the topline manager who is responsible for the relationship. Anything occurring within the fund itself is paid out of performance or out of the fund. This could potentially have significant impact depending on the size of the mandates. Generally fund to funds are seen within the private equity or absolute return asset classes. If a fund has a large enough allocation to one of the fund to funds and it starts to incorporate the underlying managers, a dramatic or significant impact could be seen in the basis point or total expense at the fund level. If it is a smaller fund or if it does not have a lot of performance fees then it would probably be more of a minimal impact. The alternative asset classes are going to have a larger impact on the total amount of fees that a fund is paying. If you remove the plans that do not have alternative assets and shorten the peer group to those who do have alternative assets, whether it be primarily private equity or hedge funds, it will have an impact. Depending on how the fees are treated, whether it is recorded on financial statements or netted out of income or out of earnings, it is going to be a significant impact. Most alternative assets are not directly invoiced to the underlying plan sponsors. Generally, it is paid out of the fund itself.

Mr. Cracraft explained that what some of the states are doing is so different and makes them difficult to track. As he mentioned earlier, back in 1994 most plans were in public equities and public bonds. Now, with a public equity portfolio, it is very straight forward on how fees are collected. Most generally charge a management fee, and more recently performance fees, but historically an invoice is received at the end of the quarter based off your market value.

Senator Bowen commented on how costs cannot be invoiced, but the majority are netted against income and how that may be complex as far as transparency is concerned. He asked should the people responsible for those funds be able to dig that out. That would be a vital tool if he were to be sitting on an investment board or any type of board. Mr. Cracraft answered that what is occurring is more people are calling for standardization. With no requirement, all the burden is being placed on the state at the plan sponsor level. He agreed with the benefits of standardization, not only knowing the total cost of something and to validate that cost itself, but also to be able to make a relative comparison of other investment strategies. He stated the industry does not incorporate that standardization just yet.

Mr. Cracraft went on to say beyond the management fee for private equity, there are some performance related fees. Mr. Cracraft characterized these fees as carried interest because that is the general term used by the private equity industry. Basically what this represents is that in a general partnership with limited partners, there is an agreement to share profits after a certain return is met, which is called a preferred return. Generally after a preferred return of 6 to 8 percent is met, the general partner retains a portion of the earnings above that or a portion of the profits. One of the difficult things with carried interest within private equity, is that it is dealing with largely illiquid assets and these partnerships generally last from seven to 15 years. A general partner is sourcing companies over the first 3 to 5 years of the relationship, and drawing capital from the limited partners to purchasing underlying companies. The general partners then work those investments over the next 3-5 years to sell in the later stages or potentially take public to begin harvesting the returns. The manner of which these funds calculate carried interest can differ. Some private equity partnerships or really any partnership may accrue carried interest as the valuations of the underlying companies change. Some may actually realize carried interest at the time the asset is disposed. Disposal of all the assets do not occur at the same time and depend on the timing of the underlying investment and how quickly it improves. Others tend to wait until a termination of the fund and a pay out of a portion of carried interest at that point. In the end, something that is moving over a seven to 12 year period can go up or down based on the evaluation of the underlying companies or what it is actually realized at. While that information is generally reported on statements, it is not always known if it is accrued or realized. The other aspect of carried interest is it may be retained at times of disbursement of earnings and is not something that clearly booked at a custodial level or paid via an invoice.

There are several other fees that are related with these partnerships. Most partnerships require an annual audit so the limited partners will share that cost. Portfolio company fees are fees that general partners are paid for monitoring underlying companies. There are also broken deal expenses. While most partnerships do disclose these fees, it can be buried deep in the contract negotiations and within the footnotes of the statements.

Mr. Cracraft continued with hedge funds, which utilize a similar structure in the sense that there is a base management fee and an incentive fee. Some people might say 2 and 20 terms, with 2 representing the management fee, which has recently been more like 1.5 percent in several cases. The incentive fee is very much like carried interest, the difference is asset class includes liquid assets that are generally not held for more than a year and are very easy to price. Most absolute return structures will basically accrue the fee over a calendar year period and a performance fee is paid at the end of the calendar year or cycle. Also included are provisions such as a high-water mark, which state that a hedge fund can only charge a performance fee if it has exceeded their previous high. So the argument is it cannot earn a performance fee on the same dollar twice. Another provision is a claw back provision, which allows investors to potentially recapture fees if performance were to reverse in a subsequent period of time after performance fees have been incurred. Sometimes, claw back and high-water marks are seen with private equity as well, but are more generally associated with hedge funds.

Real estate and real assets can basically have one of the two structures that were previously explained. Some real estate investments are more long term and illiquid and may have more of what would be called a private equity type structure. There are also investment that have things that are fairly liquid, such as a commodity portfolio or even a real estate asset class that is traded publicly as Real Estate Investment Trust (REITs). Those might have a more traditional invoice type set up or an absolute return structure of paying carried interest or incentive fee on an annual basis.

Mr. Cracraft explained how plans are reporting expenses (total dollar reported on the statement of net plan assets). There are three general categories. The funds at the higher end of reported fees are those who tend to be providing more disclosure. These are funds that are trying to identify those carried interest type items such as fund to funds or other fees that are generally linked to alternatives and basically reporting them as an investment expense. The second category, or partial disclosure, are plans that are reporting some expenses within alternative assets but typically do not incorporate the performance related fees. Management fees are being recorded and then a note is included to the financials that state additional fees or additional costs were incurred but were either netted from income or deducted from earnings or another type of setup. Some states will even provide dollar amounts of these additional fees, and other states will add a footnote. The third category includes a hand full of states that are providing no or limited disclosure. Financial statements tend to just report fees that have been directly invoiced, largely the U.S. equity and bonds. Even if a plan has reported alternative assets, it reports a fee of zero and then generally will add a note, but some states do not even add a note, it just shows zero fees. New Hampshire and Tennessee are examples of two states that are in that limited or no disclosure category. Kentucky's two larger plans are in the more and partial disclosure spaces. KTRS is recording management fees for the private equity partnerships and the private credit type deals, but are not incorporating carried interests. KTRS currently treat that as a sharing of profit and so it is deducted from the net income line. KRS is trying to incorporate carried interest and some other alternative private performance fees.

Mr. Cracraft addressed an earlier question from Senator Bowen, he stated there is a lot of reasoning for standardization and if looking at what states like Missouri and South Carolina are doing, it does lend a credence to the argument that gaining this information is important.

One of the biggest issues is that there is really no requirement or standard currently set. When this Board heard a presentation from CEM Benchmarking in late 2015, one of the things mentioned was a new standard that was being produced by a group called Institutional Limited Partners Association (ILPA). This group's primary focus is on private equity and limited partner relationships. In January, ILPA, released a template that is believed to be the first attempt at unifying and consolidating all the fee information. It is actually an Excel spreadsheet that the limited partners can send to their general partners to gain the information and it includes things such as carried interest and those other types of portfolio company fees. CEM Benchmarking is also calling for more disclosure. CEM Benchmarking wrote a whitepaper in 2015 that stated the need to create some level of standard, which highlighted the confusion that GASB standards have created. The paper also discussed the difficultly plan sponsors face with getting information from the general partners and the need for more clarity.

South Carolina hired CEM Benchmarking, much like KRS did, and South Carolina thought their fees were going to match what the CEM Benchmarking would report. CEM Benchmarking provided a number that was quite a bit higher then what was reported and so South Carolina found, like Kentucky, they were not incurring any additional fees, but the way they were recorded was not the same. South Carolina has undergone a process over the last couple of years to try to gather information and book it as an investment expense, which is why it is on the higher end. One of the things noted in the CEM Benchmarking white paper is that recording these fees was a very manual process. In November, an article in the Wall Street Journal explained how South Carolina dedicated five full time staff members to source through financial statements of the general partners to pull quarterly fee amounts, whether it be carried interest or portfolio company fees. Not only is it necessary to have human resources, but also a clear understanding of the terms, because every general partner is calculating carried interest slightly different. Currently, the burden is being placed at the planned sponsor level.

Mr. Cracraft discussed what level of disclosure is required after deciding what information is wanted. Most states are reporting fee information or expense information annually and incorporating it in their annual reports. GASB requires that investment expense be incorporated in the financial statements. In most cases, state plans are also including additional schedules that outline fees at a manager level, an asset class level, or total external manager fees. Mr. Cracraft referred to Slide 10 of the handout and stated 41 out of 50 states are providing at least asset class level data, 19 of those 41 are actually providing manager level detail. Kentucky's two larger funds that have multiple managers are doing both at asset class and KTRS also discloses information at a manager level. The fee information is generally provided at a total dollar amount, but does not include a breakdown of management or performance fees. Having this level of disclosure could help in the case you have two managers that are doing the same thing and one has a higher reported fee. That higher fee may also have been earned because their performance has been better.

A trend in the states, as well as in Kentucky, is to try and pull in more cost information. One of the real handicaps is as asset allocation has grown and become more complex, and as plans have started to invest in more unique asset strategies, the level of reporting that is required is really the same as it was two decades ago. While the asset terms and structures have become more complex, the reporting functions have not kept up. This leads to the inconsistency that the peer group shows and makes relative comparisons pretty hard if not impossible.

Mr. Cracraft spoke to the call for standardization and noted there are a lot of benefits, but finding the information can be a burden on plans. Without a change in requirement, it's also difficult to know if managers will participate. Lastly, if managers do participate, will they provide the data in the formats that is needed at the plan sponsor level.

When looking at what is considered a fee, all states already consider items directly invoiced. Some states, including Kentucky, are recording private equity or other alternative management fees.

Lastly, Mr. Cracraft discussed what level of disclosure is needed. Once finding out the data needed, it is important to understand if manager level data is enough, or is a fee a management fee versus performance or another fee. It is important to understand and comprehend what is driving the total fee number.

Representative Simpson asked if it is typical to do requests for proposals and if that is the case, could a proposal mandate required information. He also asked what type of investments. Mr. Cracraft answered within public equities or bond portfolios it is possible to see a request for proposal and a request for information. Within the alternative space, that type of network and system is not seen. Generally, (using private equity as an example) most funds that are investing in this space have consultants that help source investment and private equity investments which are arranged across different vintage years. So there might be a buyout fund in 2016 and that fund will not be raising a new fund until that fund is fully invested 5 or 6 years later. Plans try to manage the vintage year exposure, so they would not invest in buyouts for 3 consecutive years. Generally, in this space, consultants and state investment staffs work together to source which funds are fundraising and whether or not those are funds they would be interested participating in. The way it works is if a plan, such as KRS (using Blackstone as example) invests in the Blackstone Fund I, and it does well, when Blackstone begins to fundraise for Fund II, a lot of times plans choose to re-up or invest again. So it may be investors in fund I and then it might participate in fund II, and so on. Partnering with a good firm it is possible to continue to participate in their strategies. It is somewhat the model that KTRS is using to try to identify good partners and as it continues to introduce new funds for their schedule to re-up and keep the number of partnerships lower. Only more recently have the pension plans been able to start to drive some of the terms.

Representative Simpson asked if it was typical to put requirements on agreements or restrict their investment recommendations to funds that clarified the amount of fees. Mr. Cracraft responded that he could not answer that question without doing more research. He believes that the plans could probably dictate to the consultants that they only want to invest in funds that are going to follow ILPA standards, but the argument could be made that the funds that produce the highest returns or that have produced historically the best returns do not follow that standard. It is possible to subject yourself to maybe a less qualified investment just to get the reporting.

Representative Simpson asked has any state that has seen active laws that would cover this topic of transparency. Mr. Cracraft responded he did not know.

Senator Bowen commented that this is a reflection of how the Public Pension Oversight Board (PPOB) has evolved and that the quality of the information is better, and the questions asked are more astute as we grow and mature as a board this whole process is elevated. He stated that going forward he would suggest that the questions should be directed more towards the investment committees. The exercise would help those boards perform in the most efficient and highest level possible because obviously in some measure this is a partnership.

Senator Higdon referred to Mr. Cracraft talking about reporting private equity as muddy. He asked if Mr. Cracraft could elaborate more on the use of that term with those particular funds and the transparency there. Mr. Cracraft noted that a lot had happened in the industry over the past 5-10 years. Five years ago, most of these private equity general partners pretty much did anything with regards to reporting and disclosure until the market correction in 2008-2009. Most of the larger firms, that have experience relationships with public funds, have adapted and do a good job of reporting management fees. Mr. Cracraft even argued that most were providing some level of carried interest, but there were other types of fees that were usually buried. Mr. Cracraft noted a couple recent settlements involving private equity firms KKR and Blackstone, which highlighted other types of fees, included broken deal fees and portfolio monitoring fees. The settlements were significant and highlighted the difficult and sometime unclear nature of these other fees.

Auditor Harmon asked about retaining the 20 percent of the excess funds or preferred return and what analysis determines the preferred return and is it an assumed rate for the overall portfolio or is it a different investment strategy. Mr. Cracraft answered that it is generally dictated at time of investment. When a pension fund presents a private equity investment, it is included in the terms and for most private equity investments it is generally in the 6 percent to 8 percent range. For some of the fund to funds or the hedge funds it could be lower or might be a risk free rate plus some static amount. The preferred return is a fairly standard amount and depends on type of investment, such as venture capital, distressed debt, or a buyout portfolio. These all have different tiers of preferred return.

James Mac Jefferson commented that the report was not easily put together and that he was sure Mr. Cracraft did not just Google investment fees and pull it right off the shelf and that there really is not a comprehensible report like this. He asked what the carried interest would be in the example of the hospital going forward 10 years and to explain in a positive outcome sale and a negative or break even. Also, what the carried interest would have been hypothetically and how that would impact what fund is charged or what the limited partner is charged. Mr. Cracraft stated assuming the fund bought the hospital for $100,000,000 and held it for 3 to 5 years, then ultimately took it public and did an initial public offering and valued the company in the initial IPO price at $200,000,000. Basically, the cost would be $100,000,000. With a guarantee of a 5 percent return over a five year period, that would be a 25 percent return. A guaranteed 5 percent return annualized would now make that investment $125,000,000 and the general partner would keep 20 percent of that additional $75,000,000. The fund may accrue over time as it valued the hospital or it could wait and record the carried interest at time of disposal. Mr. Cracraft stated this would be the way it would work using a very simplistic model and also noted that most private equity partnerships also return your management fees before the 20 percent carry is calculated. The general partner is only retaining 20 percent of the net profit above the preferred return and after the paid management fees.

James Mac Jefferson asked if the outcome was negative and the fund was accruing carried interest along the way, would any carried interest be owed if the outcome was $100,000,000, and would that be an even break. Mr. Cracraft answered yes, even if the final outcome was $120,000,000, in that case it would not have exceeded the preferred return and no carried interest was be due. If the general partner had accrued some value for carried interest based on a previous value of the hospital, once the final proceeds of $120,000,000 were realized, the accrued amount would be reversed.

James Mac Jefferson asked if the complicated thing in reporting these fees is that carried interest is accrued annually and if there is a negative outcome, it is actually never paid. Mr. Cracraft answered some of the examples that are included in the first appendix (handout) do point to this. In some cases there is a reported negative fee at a manager level and some of that is due to the fact that most of the state funds are on a June 30 fiscal year and a lot of these partnerships are on a calendar year.

Sharon Mattingly asked how this is all driven by the terms of private equity contracted sale and who reviews those private equity contracts for Kentucky. Mr. Cracraft answered he could speak with KRS and went on to say the plan does have an internal legal staff and a contract with a third party attorney who takes the lead on these issues. KRS has a template checklist for things to ask for and they utilize a legal firm out of Wisconsin. A lot of these things have side letters that are for each particular limited partner. Mr. Cracraft indicated that his understanding was that KRS internal legal staff helped the investment staff with that process.

Legislative Update (handout)

Brad Gross, Legislative Research Commission, provided a legislative update about bills that are in the General Assembly that relate to pensions, such as funding, transparency reporting requirements, housekeeping bills, and bills about reemployment after retirement. Currently there are 27 bills being followed and the last day to request new bills was February 19. The last day to file new House bills is March 1, the last day to file new Senate bills is March 3 and certainly Sine Die is April 12. The pension bills can be followed under the Legislative Research Commission's website by going to retirement and pensions. When a pension bill is written, it is categorized under this heading and it is fairly easy to follow on a day to day basis.

When talking about legislative items, and pulling bills up on the Legislative Record there are all kinds of letters next to the bill number. The actuarial Analysis (AA) is an important item relative to pension bills because any bill that has an impact on the unfunded liabilities or participation in benefits of a state administrative retirement system requires an actuarial analysis. Local Mandates (LM) are also often done as well as Fiscal Notes (FN).

Relative to the Governor's state budget proposal, KRS has proposed two different numbers when talking about the ARC. Technically the ARC, for example, is KERS nonhazardous fund at 47.28 percent of payroll. This value came from the 2015 valuation. However, the KRS board has recommended reducing the assumed rate of return from 7.5 percent down to 6.75 and if that rate was utilized now instead of later, that ARC would be 48.59 percent of pay, which is the number that is included in the budget as well as the projection for that second year. A lot of discussion has occurred in past meeting about the cash flow for the KERS nonhazardous pension fund, and last year, despite paying the full ARC of 38.77 percent of payroll, the pension fund saw a decline of $250,000,000. Some of the discussion at that time was even if the assumed rate of return had been earned that the funds still would have lost ground as far as the asset base. Looking at the ARC payments that are set in the Governor's budget and if all these contingent monies go specifically to KERS nonhazardous pension fund, the fund could, assuming future payroll stays the same and the systems earn 6.75 percent, could see some minor asset gains in the following fiscal years.

According to KTRS, the amount needed to fund the pension fund on actuarial sound basis is roughly $520,000,000 in FY 2017 and $513,000,000 in FY 2018. Incorporating reduced debt service for bonds that have been previously issued, that number is closer $510,800,000 and $493,600,000 for each year respectively. Looking at the appropriations that are made to KTRS, the Governor's budget provides about 60 percent of that value. So about 60 percent of the ARC is being paid. With the contingent appropriations it could move up to 65 percent or 66 percent of that amount as well.

Other funding bills include Speaker Stumbo's bill which would authorize $3,300,000,000 in bonds to address the KTRS pension fund issues, would require payment of the ARC in FY 2015, and would begin a process to phase into the full ARC with general fund contributions over a nine year period and utilizing those bonds to pay the difference over that timeframe. This bill last year was House Bill 4.

Other bills that have been introduced include Senate Bill 2, by Chairman Bowen, which has passed out of the Senate and addresses several issues that were recommendations of the PPOB and some items that were discussed today. As far as fee reporting it will require all of those individual fees that Bo Cracraft discussed today also be reported. It would require that the systems to be subject to the Model Procurement Code. It would modify the definition of an investment expert for the two members appointed by the Governor to the KRS Board. It would add appointed members to the KTRS Board and would require Senate confirmation of those board members and the executive director. It would also put KRS back under the state personnel system and would add six additional legislators to the PPOB. The bill passed the Senate 38 to 0.

Senate Bill 45 requires disclosure of retirement benefits of current and former legislatures and passed the Senate 38 to 0.

House Bill 238 is a bill that was introduced last year. It would require a standardized approach to what is included in the actuarial valuations. It would require experienced studies on all the retirement systems on a five year basis. It would require reporting of the valuation by November 15. Currently the valuations are being done sometime in November, but typically in the December range. Also, an actuarial analysis, the same way bills are done on any changes made the board, is required under the bill. It would also require the PPOB to retain an actuary to do an actuarial audit, which is a second check on the existing actuary, at least once every ten years and to have that actuary review the budget's needs of the systems prior to each budget biennium. The bill passed the House 95 to 0.

Senate Bill 113, the Judicial Form Retirement System housekeeping bill, passed the Senate 38 to 0.

House Bill 153, an issue discussed during the interim about volunteer issues or paid volunteer issues with the KRS passed the House 95 to 0.

House Bill 263, a measure that limits the two appointed trustees to the KRS Board by the Governor that must have investment experience, passed the House 92 to 0. It actually limits it in a similar fashion than Senate Bill 2, but it also provides that the Governor may appoint them from a list submitted by the CFA Society of Louisville.

Senate Bill 72, allows members of the Legislative Retirement Plan (LRP) to elect to have benefits based solely upon legislative salary and any salary earned in the state retirement system prior to January 1, 2014. The bill passed the Senate 37 to 0.

House Bill 172 relates to death before retirement benefits for KTRS. There are situations where an individual is receiving survivor benefits and if they are remarried they lose those benefits in KTRS. This bill would create a situation where they would not. The bill passed House 93 to 0.

With no further business to come before the board, the meeting was adjourned at 1:54 p.m. The next regularly scheduled meeting of the board will be Monday, March 28, 2016 at 12:00 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

March 8, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, March 8, 2016, at 4:00 PM, 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, Julian M. Carroll, and Paul Hornback; Representatives Brad Montell and Brent Yonts.

Guests: Bill Harris, Mitchell Payne, Melissa Long Shuter, Jason Dunn, Andy Hightower, Mitchell Denham, Holly Coy Johnson, Fran Pinkston, Jim Erwin, Hilary Dailey, Nikki James, Paul Gannoe, Dwightel Ivey, Wendy Morris, Stephanie Craycraft, Allen Brenzel, Michele Blevins, Steve Veno, Stacy Phillips, Todd Mobley, Eric Pelfrey, Jill Asher, Kristie Graham, Hailey McCoy, Stephanie Robey, and Phillip Brown.

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

A motion was made by Representative Horlander to approve Minutes of the February 2015, meeting of the committee. Representative Yonts 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.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Jacqueline D. Alexander, 1600001105; Jennifer True Reed, 1600001110.

DEPARTMENT FOR PUBLIC HEALTH:

Mayo Medical Laboratories, 1600000573.

EASTERN KENTUCKY UNIVERSITY:

Trek Advancement, LLC, 16-172; Management Development Search, Inc., 16-173; StrADegy Advertising, LLC, 16-174; Multi, 16-176; Hardy, Carey, Chautin & Balkin, 16-179.

EDUCATION, DEPARTMENT OF:

CN Resource, LLC, 1600001181; National Alliance for Partnerships In Equity, 1600001230.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Kohrs Lonnemann Heil Engineers, PSC, 1600000510; Stantec Consulting Services, Inc., 1600001022; Paladin, Inc., 1600001033; Paladin, Inc., 1600001124.

JUSTICE CABINET:

Kelly Williams, 1600001131.

TRANSPORTATION CABINET:

URS Corporation, 1600001427.

UNIVERSITY OF KENTUCKY:

Ekhoff, Ochenkoski, Polk Architects, A161160; Vortechs Group, LLC, K16-186; Worley Parsons Group, Inc., K16-197; Software Technology Group, K16-198; Engineered Fibers Technologies, K16-199.

UNIVERSITY OF LOUISVILLE:

Huron Consulting Services, LLC, 16-046.

WESTERN KENTUCKY UNIVERSITY:

Multi, 151622; THP Limited, Inc., 151623; Appleby Arganbright, LLC, 151624

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ALCOHOL AND DRUG COUNSELORS, BOARD OF CERTIFICATION OF:

Mac R. Bell, 1400003511.

DEPARTMENT FOR MEDICAID SERVICES:

Island Peer Review Organization Incorporated, 1400002577.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

ATC Associates, Inc., 1200002604; K. Norman Berry Associates, 1300000110; Luckett and Farley Architects, Engineers, and Construction Managers, Inc., 1300002653; Myers Jolly Architects, 1400003766; Murphy & Graves & Trimble, PLLC, 1500000604; CMTA, Inc., 1500000925; Bowser-Morner, Inc., 1500001064; Murphy & Graves & Trimble, PLLC, 1500001840; Patrick Engineering, Inc., 1600000268.

KENTUCKY COMMISSION ON MILITARY AFFAIRS:

Anthony Pucciarella, 1600000678.

KENTUCKY STATE UNIVERSITY:

ERP Analysts f/k/a Tata America International Corporation, KSU-16-05.

MURRAY STATE UNIVERSITY:

Hastings & Chivetta, Inc., 020-14.

PERSONNEL BOARD:

Allen Law Office, 1500000234.

TRANSPORTATION CABINET:

American Engineers, Inc., 1100003014; Stantec Consulting Services, Inc., 1200001639; Palmer Engineering Company, 1200002607; GRW Engineers, Inc., 1200002609; QK4, 1200003576; Stantec Consulting Services, Inc., 1300002846; QK4, 1400000279; GRW Engineers, Inc., C-01125603-2.

UNIVERSITY OF KENTUCKY:

JRA Architects, A131210; Multi, A161020; Multi, A161030; The Bernard Consulting Group, Inc., K15-122; Selge Holding & Ventures, LLC d/b/a Wheless Partners Executive Search, K15-129; Fredrikson & Byron, P.A., K16-167.

WESTERN KENTUCKY UNIVERSITY:

Multi, 151622.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Louisville Metro Corrections, 1600001061.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1600001141.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Hazelden Betty Ford Foundation, 1600000900.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Kentucky Waterways Alliance, Inc., 1600000852; Mercer County Conservation District, 1600001256.

EDUCATION, DEPARTMENT OF:

Jefferson County Board of Education, 1600000937; NKU Research Foundation, 1600000968; NKU Research Foundation, 1600000971; Western Kentucky University Research Foundation, Inc., 1600000974; Green River Regional Education, 1600001126.

INFRASTRUCTURE AUTHORITY:

City of Providence, 1600001250.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1600001172; Bluegrass Area Development District, 1600001177.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Liberty, 1600001239; City of Barbourville, 1600001269; City of Pineville, 1600001272; City of Williamsburg, 1600001287; City of Wilmore, 1600001291; City of Lebanon, 1600001292; Perry County Fiscal Court, 1600001297; City of Campton, 1600001393.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Daviess County Detention Center, 1500001553; Mason County Detention Center, 1500001644.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

City of Hazard, 1500001135.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Banklick Watershed Council, 1400000656.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky Research Foundation, 1500000507.

DEPARTMENT FOR PUBLIC HEALTH:

North Carolina Foundation for Advanced Health Programs, Inc., 1500001949.

EDUCATION, DEPARTMENT OF:

Morehead State University, 1500002516; Ballard County Board of Education, 1500002802; Bath County Board of Education, 1500002803; Carter County Board of Education, 1500002806; Edmonson County Board of Education, 1500002809; Johnson County Board of Education, 1500002837; Lawrence County Board of Education, 1500002839; Fleming County Board of Education, 1500002840; Grayson County Board of Education, 1500002845; McCreary County Board of Education, 1500002850; Muhlenberg County Board of Education, 1500002851; Scott County Board of Education, 1500002854; Lyon County Board of Education, 1600000038.

MILITARY AFFAIRS, DEPARTMENT OF:

University of Kentucky Research Foundation, 1500001071.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Barbourville, 1500000452; Muhlenberg County Fiscal Court, 1500000586; Hopkins County Fiscal Court, 1500000614; Hopkins County Fiscal Court, 1500000615; Hopkins County Fiscal Court, 1500000731; Hopkins County Fiscal Court, 1500000830; Hopkins County Fiscal Court, 1500000939; City of Barbourville, 1500001597; City of Eubank, 1500002262.

TRANSPORTATION CABINET:

Monroe County Health Department, 1500002117.

FEBRUARY 2016 DEFERRED ITEMS:

UNIVERSITY OF KENTUCKY:

Fourth Quadrant, Inc. d/b/a Up & Up, K16-181; NetMediaOne, LLC d/b/a Able Engine, K16-182; Xstreme Media d/b/a Mightily, K16-183; iFactory an RDW Group, K16-185. A request was made by the University of Kentucky to withdraw the contracts.

UNIVERSITY OF KENTUCKY:

Super Soul, LLC, K16-184; Bill Harris discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

UNIVERSITY OF KENTUCKY:

NetMediaOne, LLC d/b/a Able Engine, 8800002051. Bill Harris discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

UNIVERSITY OF LOUISVILLE:

Siemens Industry, Inc. / Building Technologies Division, 16-040. Mitchell Payne and Melissa Long Shuter discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

WORKFORCE INVESTMENT, OFFICE OF:

Cumberlands SDA, 1400002819; Eastern Kentucky C.E.P., Inc., 1400002820; Green River Area Development, 1400002821; Northern Kentucky Area Development District, 1400002824; Pennyrile Area Development District, 1400002826. Andy Hightower and Jason Dunn discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

ATTORNEY GENERAL, OFFICE OF THE:

Dolt, Thompson, Shepherd & Kinney PSC, 1600001236. Mitchell Denham, Holly Coy Johnson, and Fran Pinkston discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed with Senator Raque Adams, Senator Hornback, Representative Montell, and Senator Wise voting no.

CORRECTIONS, DEPARTMENT OF:

Correct Care Solutions, LLC, 1600001016. Jim Erwin, Hilary Dailey, and Nikki James 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.

EASTERN KENTUCKY UNIVERSITY:

Multi, 16-177; Multi, 16-178; Multi, 16-180; Multi, 16-181; Multi, 16-182; Multi, 16-183; Multi, 16-184; Multi, 16-185; Multi, 16-186. Paul Gannoe and Dwightel Ivey discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed with Senator Raque Adams voting no.

UNIVERSITY OF LOUISVILLE:

Middleton Reutlinger, 16-045. A motion was made by Representative Yonts to defer the contract to the April meeting of the committee. Senator Hornback seconded the motion, which passed with Senator Raque Adams voting no.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Reach of Louisville, Inc., 1400001124. Wendy Morris, Stephanie Craycraft, and

Allen Brenzel 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.

DEPARTMENT FOR INCOME SUPPORT:

Dan K. Vandivier, 1400000899; Diosdado Irlandez, 1400000901; Mary Thompson Ph.D, 1400000918; Parandhamulu Saranga, 1400000919; Dr. William Underwood, 1400000922; Michelle D. Bornstein, 1400002449. Steve Veno, Stacy Phillips, and Todd Mobley discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

TRANSPORTATION CABINET:

Stantec Consulting Services, Inc., 1200001742. Eric Pelfrey and Jill Asher 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 MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Seven Counties Services, 1600001040. Wendy Morris, Stephanie Craycraft, and Allen Brenzel 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.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Mercer County Health Department, 1600001104. Kristie Graham and Hailey McCory 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.

MILITARY AFFAIRS, DEPARTMENT OF:

University of Kentucky Research Foundation, 1600000694; City of Cumberland, 1600001170. Stephanie Robey discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

THE FOLLOWING FILM TAX INCENTIVE AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

TOURISM DEVELOPMENT CABINET:

Lucky 8 TV, LLC, 1600001355. Phillip Brown discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed.

EXEMPTION REQUESTS:

OFFICE OF HOMELAND SECURITY, COMMERCIAL MOBILE RADIO SERVICE TELECOMMUNICATIONS BOARD (CMRS):

The Office of Homeland Security, Commercial Mobile Radio Service Telecommunications Board (CMRS) requested an exemption from the committees routine review process for all purchase orders issued as instruments of obligation for grant funds and will provide quarterly reports and requests an exemption from two year contracting restrictions. A motion was made by Representative Yonts to grant the request to December 31, 2016. Representative Montell seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES, DEPARTMENT FOR AGING AND INDEPENDENT LIVING (DAIL):

The Cabinet for Health and Family Services, Department for Aging and Independent Living (DAIL) requested an exemption from the two year contracting restrictions for an agreement with the Area Development Districts for the purpose of providing education and tools to help them better manage chronic conditions such as diabetes, heart disease, arthritis, HIV / AIDS and depression for the Chronic Disease Self-Management Education (CDSME) program: 100% Federal Funds. A motion was made by Representative Yonts to grant the request to August 31, 2016. Representative Montell seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES, DEPARTMENT FOR AGING AND INDEPENDENT LIVING (DAIL):

The Cabinet for Health and Family Services, Department for Aging and Independent Living (DAIL) requested an exemption from the two year contracting restrictions for an agreement with the Area Development Districts for the purposes of providing information and assistance to elderly and disabled Kentuckians in reference to Medicare Benefits, health and prescription drug insurance options, and other issues pertaining to public benefits for the State health Insurance Assistance Program (SHIP); 100 % Federal Funds. A motion was made by Representative Yonts to grant the request to March 31, 2017. Representative Montell seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES, KENTUCKY COMMISSION ON COMMUNITY VOLUNTEERISM AND SERVICES (KCCVS):

The Cabinet for Health and Family Services, Kentucky Commission of Community Volunteerism and Services (KCCVS) requested and exemption from two year contracting restrictions for AmeriCorps Program contracts; 100 federal Funds. A motion was made by Representative Yonts to grant the request to August 31, 2016. Representative Montell seconded the motion, which passed without objection.

ADMINISTRATIVE OFFICE OF THE COURTS:

The Administrative Office of the Courts requested and exemption from the regular filing process for Architectural/Engineering purchase orders and will file monthly reports of purchase orders awarded to firms with existing Master Agreements. A motion was made by Representative Yonts to grant the request. Representative Montell seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 5:30 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

March 2, 2016

Call to Order and Roll Call

The 3rd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, March 2, 2016, upon adjournment of both Chambers 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 Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Terry Mills, Jonathan Shell, and James Tipton.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy, Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley, Sara Sexson-Lyle, Susan Spoonamore, and Marielle Manning, Committee Assistant.

Upon motion made by Senator Parrett and seconded by Senator Embry, the February 2, 2016 minutes were approved, upon voice vote and without objection.

The Blue Grass Stockyards Resolution was read. Upon motion made by Representative Denham and seconded by Representative Mills, the resolution was adopted by unanimous voice vote.

Governor's Office of Agricultural Policy

Mr. Warren Beeler, Executive Director,

and Mr. Bill McCloskey, Director of Financial Services, presented the projects receiving Agricultural Development Board approval at its February 2016 meeting. Those included an upgraded exhaust fan, pocket-size cow herd record book, On-Farm Investments, Environmental Stewardship, Shared-use Programs, and major state wide or regional projects.

The GOAP representatives responded to committee members' questions about the Shared-use funding commitments.

The committee receive reports on two regional projects: (1) Logan County Agricultural Extension Foundation, Inc., approved by the board for $5,443 in Logan County funds to purchase and install a fan in its multi-purpose agricultural arena; and (2) Twin Lakes Cattle Association Corporation, approved by the board for $1,500 in Clinton County funds to print and distribute a pocket-size cow herd record book.

The GOAP officials responded to committee members' questions about the Logan County project, such as the funding arrangement and project specifics.

Responding to Representative Stone, Mr. McCloskey explained that a 50/50 match grant is required for the participating foundation and the fund.

Responding to Representative Denham, Mr. McCloskey explained that county money helped build the agriculture project. The project will include upgrading and installing a new exhaust fan in the agricultural arena in Logan County. County money had been used for facility previously and a lot of livestock shows are in the region. There is 1-acre under roof in the facility.

The GOAP officials provided additional details on the Twin Lakes Cattle Association Corporation project, such as record book specifics. Mr. McCloskey described that the pocket-size cow herd record book would be a 3rd edition.

The GOAP representatives described one funding denial, South Western Kentucky Economic Development Council, turned down for $1,000,000 in state funds to purchase the conservation easements on 400 acres of land adjacent to the Ft. Campbell Army base in Christian County. Concerns about benefits to Kentucky agriculture, increased farm income, and diversification of Kentucky agriculture were mentioned as reasons for denial.

In response to Representative Stone, Mr. McCloskey explained the land would still be leased out for agriculture but would benefit only seven land owners and the Agriculture Development Board felt the project was not a good use of the funds.

In response to Senator Hornback, Senator Westerfield explained the land has been purchased by local farmers with easements.

In response to Representative Denham, Senator Westerfield explained there is a TVA mega-site, and the local government is trying to acquire the easements to the property to continue to farm but also to allow Ft. Campbell to make use of the land for air operations.

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

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

March 15, 2016

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, March 15, 2016, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Chris Harris, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Senator Stan Humphries, and Representatives Will Coursey, Chris Harris, Steven Rudy, and Jim Wayne.

Guests: 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; Mr. Ryan Barrow, Executive Director, Office of Financial Management; Mr. Jeremy Ratliff, Managing Director of Multifamily Programs, Kentucky Housing Corporation; Ms. Lisa Collins, Acting Director, School Facilities Construction Commission.

LRC Staff: Josh Nacey, Committee Staff Administrator; Jennifer Luttrell, Committee Assistant.

Election of House Co-Chair

Representative Harris, Chair, said that pursuant to KRS 45.790, an election was needed for the position of House Co-Chair, to fill the unexpired term of the previous Co-Chair, Representative Kevin Sinnette. Representative Coursey nominated Representative Harris for the position of House Co-Chair. The motion was seconded by Representative Wayne. Representative Wayne moved that nominations cease and that Representative Harris be elected House Co-Chair by acclamation. The motion was seconded by Representative Coursey and approved by voice vote.

Approval of Minutes

Representative Rudy moved to approve the minutes of the December 15, 2015 meeting. The motion was seconded by Representative Coursey and approved by voice vote.

Correspondence Items

Mr. Nacey, Committee Staff Administrator, reported on a series of letters between the committee and the Finance and Administration Cabinet and the University of Kentucky regarding the cancellation of the January and February committee meetings and the intentions of the agencies to either proceed with the various projects or bond issues, or to delay them so that the committee would have an opportunity to review them. No action was required.

Information Items

Mr. Nacey said there were two informational items for the committee members to review. The first item includes the quarterly status reports on capital projects for the Administrative Office of the Courts, the Commonwealth Office of Technology, the Finance and Administration Cabinet, and the universities that manage their own capital construction programs.

The second information item is a list of proposed legislation related to the committee's jurisdiction. The list includes a summary of each bill and its current status. No action was required.

Project Reports from the Universities

Mr. Nacey said there was one project report from the University of Kentucky (UK). UK reported the purchase of the Siemen's MAGNETOM Aera 1.5T Magnetic Resonance Imaging (MRI) system. This device will be used at the UK A.B. Chandler Hospital. Due to increased need for MRI examinations and the Department of Radiology's new location on the ground floor of Chandler, an additional MRI is needed. The new MRI will benefit patients due to its ability to shorten exam time, thus reducing patients' time at the facility. The cost is $1,306,197 and will be paid in cash with UK restricted funds. No action was required.

Lease Reports from Finance and Administration Cabinet

Mr. Scott Aubrey, Director, Division of Real Properties, Finance and Administration Cabinet, presented four items. The first item was for a new lease exceeding $100,000 for the Department of Corrections in Fayette County.

The second item was for a lease renewal exceeding $100,000 for the Council of Postsecondary Education in Franklin County under the same terms and conditions through June 30, 2018.

The third item was for a lease renewal exceeding $100,000 for the Cabinet for Health and Family Services in Clark County under the same terms and conditions through June 30, 2017.

Representative Rudy made a motion to approve all three items, seconded by Representative Wayne. The motion passed by a roll call vote of 5 yeas, 0 nays.

The fourth item was for a lease modification less than $50,000 for improvements to the leased property for the Cabinet for Health and Family Services in Harlan County. The changes involve the installation of one electronic key pad lock, the addition of a steel door, and a hallway wall extension of approximately twelve (12) linear feet. The agency recommended the acceptance of the lowest bid: $43,938 from Interproperty Investments. The annual rent on the property is $176,608. The improvements will be amortized through the lease expiration date of June 30, 2023. No action was required.

Project Reports from the Finance and Administration Cabinet

Mr. John Hicks, Deputy State Budget Director, Finance Administration Cabinet, reported on six land acquisitions projects for the Department for Fish and Wildlife Resources. In all six of these projects, the projects are funded with 75 percent federal funds and 25 percent restricted funds. The restricted funds are from the Department's program income account and are primarily generated through leasing out the use of wildlife management areas. Those land acquisition projects were:

Ikerd Property, Pulaski County

Forestland Group Property, Crittenden County

Gills' Branchy Property, Owen County

House Property, Owen County

Jones Property, Ballard County

Reesor Property, Nelson and Larue County

In response to Representative Rudy's procedural question as to what happens if the motion to approve the projects fails, Mr. Hicks said this is a reporting item and that the Finance Cabinet would move forward. The Finance Cabinet would abide by the statutory requirement if the Committee were to not act or to object. The Secretary of Finance would then take a step to either agree with the Committee or to proceed with the acquisitions. Representative Coursey moved to approve the land acquisitions, seconded by Representative Wayne. The motion failed by a roll call of 4 yeas, 1 nay.

Senator Girdler, who arrived after the vote, said he would like to cast an "aye" vote on the land acquisitions submitted by the Department of Fish and Wildlife Resources. Senator Girdler moved to reconsider the previous vote. The motion to reconsider failed due to a point of order raised by Representative Rudy.

Senator Girdler said he would like the record to reflect that, had he been present for the vote, he would have cast an "aye" vote. Senator Girdler asked that a letter be included to the Secretary of the Finance Administration Cabinet stating that he would have cast an "aye" vote had he been present for the vote on the land acquisitions.

Representative Rudy said he would like to explain his "no" vote to the committee. He has asked the Department of Fish and Wildlife numerous times not to purchase any more property in the First House district without notification or explanation. Once again, the agency proceeded with these land acquisitions without honoring his request as promised. Representative Rudy said this is why he continues to vote "no" on the Fish and Wildlife Department's property acquisition to take good property off the tax rolls for the citizens of Ballard County.

In response to Senator Girdler's question of a letter to the Secretary of the Finance Administration Cabinet, Chairman Harris said the committee will include the letter along with the results of the vote by the committee.

Representative Wayne said he thought the committee needed to appreciate Representative Rudy's point. Representative Wayne suggested a way to resolve this issue might be similar to how the committee addressed the issue of Kentucky Housing Corporation's low income multiplexes. That agency has guidelines requiring that notification must be given to the legislators regarding the location of a project.

Representative Wayne suggested that a letter could come from the co-chairs of the committee to the Department of Fish and Wildlife stating that the committee requests formalization of a notification policy by the agency in their proceedings when it purchases lands. Representative Wayne moved that the committee co-chairs send this letter to the Department of Fish and Wildlife, seconded by Senator Girdler. The motion passed by a roll call of 6 yeas, 0 nays.

Kentucky Infrastructure Authority (KIA)

Brandi Norton, Financial Analyst, Kentucky Infrastructure Authority, reported on seven items. Representative Coursey made a motion to vote for all projects in one vote, seconded by Senator Humphries. The motion was approved by voice vote.

The first item was a Fund A loan for the Regional Water Resource Agency in Daviess County. The request was for a $7,282,500 Fund A loan for the Southwest Master Pump Station and Airport Bittle Road Project. The loan will have a 20 year term, an interest rate of 1.75 percent and an annual estimated debt service payment of $447,696.

The second item was a Fund A loan for the Regional Water Resource Agency in Daviess County. The request was for a $3,296,951 loan for the Treatment Plant Ultraviolet (UV) Disinfection and Electrical Remediation Project. The loan will have a 20 year term and an interest rate of 1.75 percent and an annual estimated debt service payment of $202,682.

The third item was a Fund A loan for the City of Hopkinsville in Christian County. The request was for a $1,500,000 loan for the Phase VIII-Expand Hammond-Wood, WWTP and Interceptor project. The loan will have a 5 year term and an interest rate of 2.75 percent and an estimated annual debt service payment of $326,152.

The fourth item was a Fund A loan for the City of New Haven in Nelson County. The request was for $251,000 for the City of New Haven I & I Sewer Rehab Phase II. The loan will have a 20 year term and an interest rate of .75 percent and an estimated annual debt service payment of $14,040.

The fifth item was a Fund A loan for the City of Elizabethtown in Hardin County. The request was for $11,005,500 for the Village and Poplar Drive Sewer Improvements Project. The loan will have a 20 year term and an interest rate of 2.75 percent and an estimated annual debt service payment of $741,095.

The sixth item was a Fund F loan for the City of Hopkinsville in Christian County. The request was for $8,000,000 for the US41A Water Main Improvement, 2 MG Southpark Tank, and Tank Rehabilitation Project. The loan will have a 20 year term and an interest rate of 1.75 percent and an estimated annual debt service payment of $495,805.

The seventh item was a Fund F loan for the Southern Water and Sewer District in Floyd County. The request was for $550,000 for the Mink Branch Tank Replacement Project. The loan will have a 20 year term and an interest rate of 0.75 percent and an estimated annual debt service payment of $23,280.

Representative Wayne made a motion to approve these seven items, seconded by Representative Rudy. The motion was approved by a roll call vote of 5 yeas, 0 nays.

Office of Financial Management

Mr. Ryan Barrow, Executive Director, Office of Financial Management (OFM), reported on five items. Chair Harris asked that the first two items be blocked together. The first item was the State Property and Building Commission (SPBC) Agency Fund Revenue Refunding Bonds, Project No. 113, for the Kentucky River Authority. Proceeds from this bond issue will refund SPBC Project No. 91 (Dam 9) for a net present value savings of 15.54 percent ($1.6 million), fund a debt service reserve and rate stabilization fund, and pay associated costs of issuance. Payments will be made, as for SPBC Project No. 91, from Tier II fees, which charges for water withdrawn from the main stem of the Kentucky River for capital construction projects (locks and dams).

The second item was the Kentucky Housing Corporation (KHC) Conduit Multifamily

Housing Revenue Bonds, Waterson Lakeview Apartments, Series 2016. Proceeds from this bond issue will finance the acquisition, rehabilitation, and equipping of a multifamily residential rental facility containing 184 units in Louisville, Kentucky, developed by Millennia Housing Development (MHD). As a conduit issuer, the Commonwealth is not responsible for repayment of debt, which will be stated in the SPBC Resolution. The bond proceeds are $10,750,000 with the date of sale on April 20, 2016, for a term of 24 months at 0.95 percent.

In response to Representative Wayne's questions regarding the exact location in Louisville where the project is located and whether all or a part of the project is Section 8, Mr. Barrow said that the project is residential facilities consisting of 184 units located on 3703 West Wheatmore Drive, Louisville, Kentucky, which would be Louisville Section 8. It would also include those who would not qualify as Section 8, but would qualify based on income level. Representative Wayne asked Mr. Barrow if the state legislators in the district are notified prior to the issue of these bonds in accordance with the agreement and if the Office of Financial Management is required to notify the legislators in writing. Representative Wayne said that, in a recent case, one legislator had not received his certified letter from KHC and there was no follow-up by the agency. Representative Wayne wanted to bring this to the attention of OFM to make sure the legislators are informed. Mr. Jeremy Ratliff, Director of Multifamily Programs, KHC, said that KHC is required to notify the district legislator in writing. Mr. Ratliff said there was a public hearing held by KHC on March 14, 2016, in regards to the bond issue. Representative Wayne expressed his appreciation to the Office of Financial Management for doing the project. Representative Coursey moved to put the two projects together as a block vote, seconded by Representative Wayne. The motion passed by voice vote.

Representative Wayne moved to approve the two items, seconded by Senator Humphries. The motion was approved by roll call vote of 6 yeas, 0 nays.

The third item was a bond issue that provided financing for the "Renovate/Expand University Student Center" project and associated costs of issuance. The tax-exempt (70 percent) versus taxable (30 percent) allocation ($112M/$48M project fund deposits) was based upon anticipated square footage to be utilized for private use space (calculations by UK, with the assistance of Commonwealth Economics and Bond Counsel). These bonds sold at approximately 3.4 percent. No action was required.

The fourth item was a refunding for Murray State University General Receipts Refunding Bonds, 2016 Series A, dated February 11, 2016, for $8,310,000, with a net present savings of approximately $850,000 to the University. Proceeds from this bond issue financed the advance refunding of Murray State University General Receipts Bonds, 2007 Series A and pay associated costs of issuance. No action was required.

The fifth item was for modifications to an Economic Development Bond Grant Modification to the City of Winchester for the benefit of AMZN wacs, Inc. The Kentucky Economic Development Finance Authority (KEDFA) authorized modification of the agreement at its February 2016 meeting to allow for program disbursements based upon compliance ($49,000 for the first year and $67,000 for the next three years), elimination of collateral, and changing the requirements and compliance dates to align with companion Kentucky Business Investment programs targets (400 new full-time jobs by December 31, 2015 and an additional 150 new full-time jobs for a total of 550 full-time jobs for Kentucky residents for the next three years). No action was required.

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

Mr. Ryan Barrow, Executive Director, Office of Financial Management, reported on 28 items evenly split, 14 new money transactions, for an estimated par of 91 million dollars. There was 14 refunding transactions with an estimated par of 6.23 million dollars, with an aggregate net present savings of approximately 2.4 million dollars realized by each school district over the term of the bonds.

Representative Rudy asked if the funds for construction on building a new elementary school for Henderson County were funds from the last budget. Mr. Barrow deferred this question to Ms. Lisa Collins, Acting Director, School Facilities Construction Committee (SFCC). Ms. Collins said that funding for the new construction in Henderson County comes from their regular offers of assistance that the agency receives every biennium. Districts are allowed to escrow their offers with the SFCC for up to eight years. Henderson County has saved several offers and the school will be using debt service that has already been authorized for that issue. Representative Rudy asked whether the construction is one of those ten schools that there are questions about and Ms. Collins said it is not. Representative Rudy said it was his understanding that none of these projects are dealing with the last budget. Representative Rudy asked if this is the only one dealing with new construction with the rest being renovations only. Mr. Barrow said that all of the new money issues are new improvements with the exception of Henderson County. Representative Wayne made a motion to approve the school bonds, seconded by Representative Rudy. The motion was approved by roll call vote of 5 ayes, 0 nays.

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

Mr. Nacey reported on nine local school bond issues have been reported to the committee. These bond issues are 100 percent locally funded and do not involve tax increases. The purposes for which these bonds will be issued include refunding of previous issues, finance energy conservation measures, and to make various improvements to existing school buildings. No action was required on these items.

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

Lastly, Chairman Harris said the committee had a resolution honoring Mr. John Hicks and his 32 years of service to the Commonwealth and to the committee. Mr. Nacey read the resolution being presented to Mr. Hicks and, on behalf of the committee, extended its best wishes to Mr. Hicks in his new role as executive director of the National Association of State Budget Officers. The resolution also stated that, when the committee adjourns, it shall do so in honor of Mr. Hicks.

Representative Wayne made a motion to adopt the resolution, seconded by Representative Coursey. The motion was approved by voice vote.

With there being no further business, the meeting was adjourned at 1:29 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

April 13, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Wednesday, April 13, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Dennis Horlander, 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, Julian M. Carroll, and Paul Hornback; Representatives Brad Montell, Lewis Nicholls, and Brent Yonts.

Guests: Leslie Strohm, Steve Miller, Deck Decker, Keith Rogers, Gary Folckemar, Jimmy Adams, Marley Lowe, Jenny Goins, Sharron Burton, Leslie Bilby, Lindsay Hughes Thurston, Eric Pelfrey, Travis Thompson, David Ritchey, Andre Johannes, Ron Parritt, Savannah Wiley, Heather Wagers, Adam Caswell, Stephanie Craycraft, Wendy Morris, Mike Denney, Jennifer

Linton, Pete Bard.

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

A motion was made by Representative Yonts to approve Minutes of the March 2016, meeting of the committee. Senator Wise 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. Senator Wise 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. Senator Wise 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. Senator Wise 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. Senator Wise seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CABINET FOR HEALTH AND FAMILY SERVICES:

Taylor Holbrook, 1600001446; Cynthia K. Maynard, 1600001681; Maryann Zoll, 1600001850; Nathan Goins, 1600001851.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

MB Consulting Services, LLC, 1600001265; Lee Ann Morrison, 1600001266; Brett Scott, 1600001267; Kimberly Henderson Baird, 1600001528; Allyson Honaker, 1600001529; MB Consulting Services, LLC, 1600001805.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Stantec Consulting Services, Inc., 1600001285; Dr. Ted Pass II, 1600001295; Aecom Technical Services, Inc., 1600001323.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Cathy A. Jackson, 1600001447.

FAIR BOARD:

Scarlett W. Mattson, 1600001299; David H. Snowden, 1600001300.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Paladin, Inc., 1600001243; Staggs and Fisher Consulting Engineers, Inc., 1600001244; Arcadis U.S., Inc., 1600001293.

FISH & WILDLIFE, DEPARTMENT OF:

AMEC Foster Wheeler Environment & Infrastructure, Inc., 1600001192.

NORTHERN KENTUCKY UNIVERSITY:

BKD, LLP, 2016-726; Anderson Strickler, LLC, 2016-729.

STATE POLICE, DEPARTMENT OF:

Pinpoint Testing, LLC, 1600001123.

TRANSPORTATION CABINET:

Palmer Engineering County, 1600001785.

UNIVERSITY OF KENTUCKY:

CMTA, Inc., A161170; Sherman Carter Barnhart, A161180; SSR Cx, LLC, A161190; Shield Environmental Associates, Inc., K16-200; Human Resources Research Organization (HumRRO), K16-201; Companion Professional Services, LLC d/b/a TM Floyd, K16-202.

UNIVERSITY OF LOUISVILLE:

Brailsford & Dunlavey, Inc., 16-047; DBS Interactive, 16-050.

VETERANS AFFAIRS, DEPARTMENT OF:

Mountain Mobile Diagnostics, Inc., 1600001232; Multi, 1600001257; Multi, 1600001277; Multi, 1600001302; Trilogy Rehabilitation Services, LLC, 1600001304; Firstlab, LLC, 1600001330; Quality Mobile X-Ray Services, Inc., 1600001331; Multi, 1600001332; Premier Integrity Solutions, 1600001333; Trilogy Rehab Services, LLC, 1600001334; Quality Mobile X-Ray Services, Inc., 1600001368; Premier Integrity Solutions, 1600001369; Guardian Angel Staffing Agency, 1600002015.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CABINET FOR HEALTH AND FAMILY SERVICES:

Thomas J. Hellmann, PLLC, 1500000558; Susan Gormley Tipton, 1500000559.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Michael E. Blanton, 1500001631.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Crown Services, Inc., 1400003028.

DEPARTMENT FOR MEDICAID SERVICES:

Covington and Burling, 1400001429.

DEPARTMENT FOR PUBLIC HEALTH:

Norton Healthcare, Inc., 1400001128.

DEPARTMENT OF INSURANCE:

Wakely Consulting Group, 1400002618; Donald D. Bratcher LLC, 1400002835.

EASTERN KENTUCKY UNIVERSITY:

Multi, 16-176; Multi, 16-177; Multi, 16-178; Multi, 16-180; Multi, 16-181; Multi, 16-182; Multi, 16-183; Multi, 16-184; Multi, 16-185; Multi, 16-186.

EMBALMERS & FUNERAL HOME DIRECTORS, BOARD OF:

Kathleen K. Schell, 1400003570.

FINANCE AND ADMINISTRATION CABINET:

Vanantwerp Attorneys, LLP, 1500001797.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Omni Architects, 0700003255; EOP Architects, PSC, 1100002570; Staggs & Fisher Consulting Engineers, Inc., 1200000308; EOP Architects, PSC, 1400000960; Paladin, Inc., 1400001412; Paladin, Inc., 1400001416; Clotfelter Samokar, PSC, 1500000669; Omni Architects, 1500001238; Bender Associates Architects, 1500001577; Paladin, Inc., 1600000070; Peck Flannery Gream Warren, Inc., 1600000101.

JUSTICE CABINET:

Multi, 1600000192.

JUVENILE JUSTICE, DEPARTMENT OF:

Keith Hardison, 1400003321.

KENTUCKY LOTTERY CORPORATION:

PriceWeber Marketing Communications, Inc., 16-08-043.

KY RACING COMMISSION:

Stoll Keenon Ogden, PLLC, 1600000623.

MOREHEAD STATE UNIVERSITY:

JGH Enterprises d/b/a Harris Search Associates, 16-044.

OFFICE OF INSPECTOR GENERAL:

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

TRANSPORTATION CABINET:

Municipal Engineering Company, 0600002598; HDR Engineering, Inc., 1100002338; HDR Engineering, Inc., 1200000534; Stantec Consulting Services, Inc., 1200001443; Strand Associates, Inc., 1300001568; HDR Engineering, Inc., 1300001910; EA Partners, PLC, 1300002498; American Engineers, Inc., 1400000002; Hanson Professional Services Inc., 1400000257; J M Crawford & Associations, Inc., 1400000398; Johnson, Depp & Quisenberry, 1400000586; GRW Engineers, Inc., 1400000706; Lochner H.W., Inc. Consulting, 1400000808; HMB Professional Engineers, Inc., 1400000809; Workwell, 1400002435; Burgess and Niple, Inc., 1400003102; QK4, Inc., 1500001028; QK4, Inc., 1500001282; GRW Engineers, Inc., C-99004982-3.

UNIVERSITY OF KENTUCKY:

BKD, LLP, K15-101.

UNIVERSITY OF LOUISVILLE:

Sherman Carter Barnhart, PSC, 09040.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1600002013.

CORRECTIONS, DEPARTMENT OF:

Breckinridge County Jail, 1600001382; Christian County Jail, 1600001385; Daviess County Detention Center, 1600001386; Grant County Jail, 1600001390; Grayson County Jailer, 1600001392; Harlan County Fiscal Court, 1600001398; Henderson County Jail, 1600001399; Powell County Fiscal Court, 1600001421; Shelby County Detention Center, 1600001422; Three Forks Regional Jail, 1600001423; Kenton County Detention, 1600001826; Kenton County Detention, 1600001831.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1600001180.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Jackson Purchase RC and D, 1600000826; USDA-Forest Service, 1600001279; City of Cadiz, 1600001451.

EDUCATION, DEPARTMENT OF:

University of Louisville Research Foundation, 1600000996.

FISH & WILDLIFE, DEPARTMENT OF:

University of Kentucky Research Foundation, 1600001114; U. S. Fish and Wildlife Service, 1600001209; University of Georgia Research, 1600001324.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1600001190.

OFFICE OF HEALTH POLICY:

Kentucky Hospital Association, 1600001189.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Pike County, 1600001453; Harlan County Fiscal Court, 1600001490; Nicholas County Fiscal Court, 1600001568; City of Hustonville, 1600001571; Knott County Fiscal Court, 1600001591; Owsley County Fiscal Court, 1600001692; Owsley County Fiscal Court, 1600001693; City of Irvine, 1600001822; Christian County, 1600001891; City of Central City, 1600001987; Harrison County Fiscal Court, 1600002014.

OSH REVIEW COMMISSION:

Attorney General, 1600001431.

POST SECONDARY EDUCATION, COUNCIL ON:

Whitley County Board of Education, 1600001376; Kentucky Valley Education, 1600001563; KCTCS, 1600001564; Knox County Board of Education, 1600001567.

VETERANS AFFAIRS, DEPARTMENT OF:

Department of Medicaid Services, 1600001380.

WORKFORCE INVESTMENT, OFFICE OF:

Kentucky Revenue Cabinet, 1600001259; Kentucky Transportation Cabinet, 1600001273.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Bluegrass Prevention Center, 1500002815; Lifeskills Corporation Offices, 1500002820; Pennyroyal Mental Health, 1500002824.

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001216; Multi, 1500001218.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:

La Casita Center, 1400002416.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Eastern Kentucky University, 1500001918.

DEPARTMENT FOR PUBLIC HEALTH:

University of Kentucky Research Foundation, 1400001557.

EDUCATION, DEPARTMENT OF:

Franklin County Board of Education, 1500002842.

EDUCATION, OFFICE OF THE SECRETARY:

Kentucky State University, 1600000028.

JUVENILE JUSTICE, DEPARTMENT OF:

University of Kentucky Medical Center, 1500000989.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Johnson County Fiscal Court, 1400000964; Menifee County Board of Education, 1400001949; Menifee County Board of Education, 1400002891; Menifee County Board of Education, 1400003142; City of Wheelwright, 1400003675; Monroe County Fiscal Court, 1500000314; Floyd County Fiscal Court, 1500000608; Hopkins County Fiscal Court, 1500000611; Hopkins County Fiscal Court, 1500000614; Martin County Fiscal Court, 1500000616; Madisonville Community College, 1500000645; Webster County Fiscal Court, 1500001606; Jackson Independent School District, 1500002129; City of Cumberland, 1500002663; Wolfe County Fiscal Court, 1600000236.

TRANSPORTATION CABINET:

Jefferson Community and Technical College, 1500001574.

WORKFORCE INVESTMENT, OFFICE OF:

Barren River Area Development District, 1400002814; Bluegrass Area Development District, 1400002818; Buffalo Trace Area Development District, 1400002825.

MARCH 2016 DEFERRED ITEM:

UNIVERSITY OF LOUISVILLE

Middleton Reutlinger, 16-045. Leslie Strohm discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

AGRICULTURE, DEPARTMENT OF:

Stoll Keenon Ogden, PLLC, 1600001813. Keith Rogers discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

DEPARTMENT FOR MEDICAID SERVICES:

McKinsey & Company, Inc., 1600001445. Steve Miller and Deck Decker discussed the contract with the committee. A motion was made by Representative Yonts to disapprove the contract. Senator Carroll seconded the motion, which failed with Senator Raque Adams, Senator Hornback, Senator Wise, and Representative Montell voting no. A motion was made by Senator Wise to consider the contract as reviewed, which passed with Representative Nicholls, Representative Yonts, and Representative Horlander voting no.

EASTERN KENTUCKY UNIVERSITY:

CMTA, Inc., 16-191; CMTA, Inc., 18-001. Gary Folckemar discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Senator Wise seconded the motion, which passed.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Ruby D. Carr, 1600001517. Jimmy Adams and Marley Lowe 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.

PERSONNEL-OFFICE OF THE SECRETARY:

Optumhealth Care Solutions, Inc., 1600001545. Jenny Goins, Leslie Bilby, and Sharron Burton discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed.

Representative Yonts seconded the motion, which passed.

SECRETARY OF STATE, OFFICE OF THE:

Tachau Meek, PLC, 1600001229. Lindsay Hughes Thurston discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

TRANSPORTATION CABINET:

Parsons Brinckerhoff, Inc., 1600001457. Eric Pelfrey and Travis Thompson discussed the contract with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Nicholls seconded the motion, which passed with Representative Montell voting no.

TRANSPORTATION CABINET:

HMB Professional Engineers, Inc., 1600001507. Eric Pelfrey and Andre Johannes 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.

TRANSPORTATION CABINET:

Stantec Consulting Services, Inc., 1600001742. Eric Pelfrey and David Ritchey discussed the contract with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Nicholls seconded the motion, which passed with Senator Raque Adams, Senator Hornback, Representative Montell, and Senator Wise voting no.

UNIVERSITY OF LOUISVILLE:

Pence & Ogburn, PLLC, 16-049. Leslie Strohm discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

STATE POLICE, DEPARTMENT OF:

David Decker, 1500002625; Joseph Johnson, 1500002626; Donald Perry, 1500002627; John Pratt, 1500002629; Kevin Guier, 1500002631; Steve Thomas, 1500002632; Samuel Little, 1500002633; Michael Carnahan, 1500002634; James Don Trosper, 1500002635; Kelley Farris, 1500002636; Harry J. Sowders, 1500002637; Timothy W. Mullins, 1500002638; Steven Owen, 1500002639; Johnny Begley, 1500002640; Billy P. Hall, 1500002641; Steven Todd Maggard, 1500002642; Jack H. Riley, 1500002643; Joel Woods, 1500002644; David Lassiter, 1500002645; Terry Alexander, 1500002646; Norman Winchester, 1500002647; Christopher Ison, 1500002648; Ronald Long, 1500002649; Bruce Kelley, 1500002650; Trevor Scott, 1500002651; Roy Pace Jr., 1600000286; Michael Webb, 1600000315. Ron Parritt, Savannah Wiley, and Heather Wagers discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACT FOR $10K AND UNDER WAS SELECTED FOR FURTHER REVIEW:

NORTHERN KENTUCKY UNIVERSITY:

Top Shelf Lobby, 2016-728. Adam Caswell discussed the contract with the committee. A motion was made by Senator Hornback to disapprove the contract. No vote was taken. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed with Senator Hornback voting no.

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

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Seven Counties Services, 1400000927. Stephanie Craycraft and Wendy Morris discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

KENTUCKY LOTTERY CORPORATION:

Finance & Administration Cabinet, Department of Facilities & Support Services, 16-15-043. Mike Denney, Jennifer Linton, and Pete Bard discussed the contract with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Montell seconded the motion, which passed.

EXEMPTION REQUESTS:

TRANSPORTATION CABINET:

The Transportation Cabinet requests an exemption from the committee's routine review process for the KYTC's Aviation Economic Development Grant Agreements and will provide quarterly reports. A motion was made by Representative Yonts to grant the request to June 30, 2018. Representative Montell seconded the motion, which passed without objection.

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requests an exemption from the Committee Policy Statement 99-4, which prohibits contracts and agreements from extending beyond biennium for the purpose of Bovine Spongiform Encephalopathy (BSE); Avain Influenza testing; and the Accredited Veterinarians contracts; 100% Federal Funds. A motion was made by Representative Yonts to grant the request to March 31, 2017. Representative Montell seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 2:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the of the April Meeting

April 11, 2016

Call to Order and Roll Call

The April of the Administrative Regulation Review Subcommittee was held on Monday, April 11, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams, and Alice Forgy Kerr; Representatives Linda Belcher, and Tommy Turner.

Guests: Kendy Parks, Department of Revenue; Joseph Patrick Bowman, Jennifer Jones and Brian Thomas, Retirement Systems; Leanne Diakov, Board of Medical Licensure; Myra Goldman, Spencer Robinson, and Paula Schenk, Board of Nursing; Dr. Karen Waldrop, David Wicker, Fish and Wildlife Resources; Amy Barker, Department of Corrections; Stephanie Brammer-Barnes, Stephanie Hold, Office of the Inspector General; Justin Dearinger, Wendy Morris, Department for Behavioral Health, Developmental and Intellectual Disabilities; Veronica Cecil, Beth Ennis, Leslie Hoffmann, Department of Medicaid; Chell Austin, Brain Injury Alliance of Kentucky; Malicia Hitch, Kevin McManis, Department for Protection and Advocacy; Lili Solinger Lutgens, Therapeutic Intervention Services; Dale Lynn, Kentucky Occupational Therapy Association; Shannon McCracken, Kentucky Association of Private Providers; Jean Russell, Seven Counties Services; Jane Stahl, and Mark White.

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

The Administrative Regulation Review Subcommittee met on Monday, April 11, 2016, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:010. General Administrative Forms Manual. Kendy Parks, taxpayer service specialist, represented the department.

A motion was made and seconded to

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

Kentucky Retirement Systems: General Rules

105 KAR 1:145 & E. Voluntary cessation of participation by employers. Joseph Bowman, staff attorney; Jennifer Jones, assistant general counsel; and Brian Thomas, general counsel, represented the systems.

In response to questions by Co-Chair Harris, Mr. Thomas stated that this administrative regulation established the process for an agency to end participation in Kentucky Retirement Systems. The agency would apply to cease participation and pay the full actuarial cost. There were several mechanisms in place for accruing military service time, including free military service and purchased service that required contributions. The purpose of the military service provision in this administrative regulation was to ensure that Kentucky Retirement Systems identified eligible military service time so that an individual member could get credit for that service before the agency ceased participation in the systems.

In response to questions by Representative Belcher, Mr. Thomas stated that one (1) reason an agency might opt to end participation in Kentucky Retirement Systems was the contribution rate. Individual members in an agency that opted to end participation in the systems would stop accruing service hours as of the cessation date; however, earned credit prior to that cessation date would be preserved for the retirement date of each individual member. If an individual member transferred to an agency that still participated in Kentucky Retirement Systems, service hours would begin to accrue again and build on the existing account established prior to the cessation date.

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine Mono-Product or Buprenorphine-Combined with Naloxone. Leanne Diakov, general counsel, represented the board.

In response to a question by Co-Chair Harris, Ms. Diakov stated that the two (2) drugs referenced in this administrative regulation were for the treatment of addiction to opioids or treatment for long-term controlled substance abuse.

In response to a question by Co-Chair Marzian, Ms. Diakov stated that Naloxone was an independent drug, separate from the two (2) drugs referenced in this administrative regulation, and was for use in preventing death after heroin overdose. The two (2) drugs referenced in this administrative regulation were for the treatment of long-term addiction related to opioids, including but not limited to heroin, or controlled substances.

Board of Nursing: Board

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing. Myra Goldman, education consultant; Spencer Robinson, staff attorney; and Paula Schenk, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:271. Repeal of 201 KAR 20:270 and 201 KAR 20:290.

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

In response to questions by Co-Chair Harris, Ms. Schenk stated that nursing schools did not determine enrollment based on the number of available beds at hospitals and healthcare facilities. Ms. Goldman stated that the calculation pertaining to available beds was for clinical facilities. There was nursing student competition for clinical facilities, and the board established the calculation to ensure that facilities could accommodate nursing students.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220; and (3) to amend Section 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

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

201 KAR 20:320. Standards for curriculum of prelicensure nursing programs.

In response to a question by Co-Chair Harris, Ms. Schenk stated that some definitions were deleted because they were moved into a different administrative regulation within this pack-age.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 and 2 to use consistent terminology; and (4) to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:340. Students in prelicensure registered nurse and practical nurse programs.

201 KAR 20:350. Educational facilities and resources for prelicensure registered nurse and practical nurse programs.

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 the administrative regulation, as required by KRS 13A.220; and (2) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify that accredited programs of nursing are: (a) deemed to be in regulatory compliance only for the eight (8) year compliance reviews that are required for non-accredited programs; and (b) subject to the same site visit criteria as non-accredited programs; (2) to amend Sections 2 and 3 to clarify the types of information that must be provided to the board; (3) to amend Section 3 to specify that revisions to an evaluation plan or report must be sub-mitted with the annual report; (4) to amend Section 6 to clarify when the board may grant additional time for a program of nursing to correct a deficiency; and (5) to amend Sections 1 through 3, 5 through 7, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:370. Applications for licensure.

201 KAR 20:470. Dialysis technician credentialing requirements and training program standards.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 8 to clarify program approval criteria; (2) to amend Section 6 to align discipline procedures with the board's authorizing statutes; and (3) to amend Sections 1, 6, 9, 11, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. With-out objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Licensing

301 KAR 3:005. Public use of newly acquired or newly managed lands. Dr. Karen Waldrop, deputy commissioner, and David Wicker, general counsel, represented the department.

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

501 KAR 6:030. Kentucky State Reformatory. Amy Barker, assistant general counsel, rep-resented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that this administrative regulation was in compliance with federal guidelines regarding LGBTI inmates. Protections for LGBTI inmates included an abuse investigation and reporting framework, including provisions for anonymous reporting.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) update policy titles; (2) clarify procedures for the release of inmate funds if an inmate dies; (3) align open records procedures with statutory requirements; (4) comply with the drafting requirements of KRS Chapter 13A; and (5) update the edition dates of the amended policies. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:275. Mobile health services. Stephanie Brammer – Barnes, regulation coordinator, and Stephanie Hold, acting inspector general, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 3 and 5 to add citations; and (2) to amend Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:835. Michelle P. waiver services and reimbursements. Veronica Cecil, deputy commissioner, and Leslie Hoffmann, executive director, represented the department. Lili Lutgens, licensed clinical social worker, Therapeutic Intervention Services; Shannon McCracken, executive director, Kentucky Association of Private Providers (KAPP); and Jean Russell, vice president of developmental services, Seven Counties Services, appeared in opposition to these administrative regulations.

In response to questions by Representative Belcher, Ms. Cecil stated that 907 KAR 1:835 and 907 KAR 12:010 and 12:020 reflected the final federal home and community based rules pertaining to the setting for providing waiver services. Services were not being cut, but operation of the waivers was being changed. Ms. Hoffmann stated that these administrative regulations established a person centered approach to conflict free case management in which the case manager was not the service provider.

In response to a question by Representative Belcher, Co-Chair Marzian stated that there may be fewer available occupational, physical, and speech therapy providers due to different requirements between the existing waiver programs and the provider requirements established in the State Health Plan, to which program these therapies were being transferred as part of this administrative regulation package. Ms. Cecil agreed and stated that access was vital; therefore, the department provided a procedure for therapy providers to transfer from the waiver programs to the State Health Plan. Once a therapy provider transitioned to the State Health Plan, if the provider so chose, the provider may provide care to any Medicaid recipient, not just waiver recipients.

Ms. Cecil stated that upon transitioning from the KYNECT to the Benefind system, a conversion error generated letters to many Medicaid recipients erroneously informing them that they were no longer eligible to receive services as of April 1, 2016. These recipients were still eligible for services and were listed as eligible in the Kentucky Health Net database that providers used to determine patient eligibility. Providers and managed care organizations had been notified to continue to provide services to these recipients. Ms. Cecil was unsure if a follow-up letter had been sent directly to the recipients to clarify that they were not ineligible. Representative Belcher requested that the department provide a copy of the follow-up letter if it was determined that a letter had been sent.

In response to questions by Co-Chair Marzian, Ms. Hoffmann stated that reimbursement for occupational, physical, and speech therapies would be transferred to the State Health Plan. The Supports for Community Living (SCL) waiver was preparing for renewal, and the Michelle P. waiver was being amended commensurate with the final federal rule. Therapy services would not be lost but, pursuant to 907 KAR 8:040 and 8:045 and the State Health Plan, reimbursement rates were different. Ms. Cecil stated that, because the federal Centers for Medicare and Medicaid Services (CMS) refused to renew support for the waiver programs if occupational, physical, and speech therapies continued to be provided through the waivers, as each waiver prepared for renewal, reimbursement for the therapies was being transferred for coverage under the State Health Plan.

Ms. Cecil also stated that, pursuant to the State Health Plan, reimbursement for occupational, physical, and speech therapies was different, both the rates themselves and the units on which the rates were based. In some cases the equivalent reimbursement rates would be lower, while in other cases the equivalent reimbursement rates would be higher. Kentucky's State Health Plan reimbursement rates for occupation, physical, and speech therapies were comparable to the reimbursement rates for those therapies in other states. The reimbursement rate for speech therapy was especially lower under the State Health Plan than the rates were under the waiver programs. An increase of the speech therapy reimbursement rate would apply to every Medicaid recipient, not just those recipients who had received the lower rate under a waiver pro-gram. The department did not have the administrative or fiscal resources to increase the speech therapy reimbursement rate for the entire Medicaid population. The department would continue to research ways to address the issue, but the reimbursement rate was not something that could be increased immediately. The department, in discussions with providers, deter-mined that, while lower in many cases, the reimbursement rate changes for occupation and physical therapies were more manageable for the providers than the changes to the reimbursement rate for speech therapy.

Ms. Hoffmann stated that speech therapy, under the State Health Plan, was administratively coded differently than the waiver coding. Ms. Cecil stated that a speech therapy provider may be able to raise a reimbursement rate by adjusting coding practices.

Co-Chair Harris stated that transferring the reimbursement for occupational, physical, and speech therapies under the State Health Plan provided more transparency regarding who is providing services and established more frequent review of individual progress. Ms. Cecil agreed with CoChair Harris's statement that the transfer improves accountability and transparency, while maintaining continuity of care. Long-term therapy would still be available; however, outcome based accountability would be required to determine the appropriate duration. Historical information regarding individual patients would not be lost.

In response to a question by CoChair Marzian, Ms. Cecil stated that an occupational, physical, or speech therapy provider who was enrolled as a provider pursuant to a waiver program had not been previously required to be enrolled as a provider pursuant to the State Health Plan. Such a provider previously had the option to be enrolled under both programs, once the State Health Plan began covering occupational, physical, and speech therapies, but such a provider had not been required to be enrolled under the State Health Plan. Because occupational, physical, and speech therapy were transferring for implementation under the State Health Plan, providers would be required to enroll under that program and meet those requirements that were different from provider requirements under the waiver programs.

Ms. Russell stated that Seven Counties Services was currently serving over 200 recipients receiving occupational, physical, or speech therapies pursuant to a waiver program; however, Seven Counties Services would not qualify as eligible to provide these services pursuant to the State Health Plan. The requirements under the State Health Plan required electronic billing and a claims department, which were not affordable for many small providers. The requirements were more burdensome, but the reimbursement rates were lower. The REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT stated that there was no cost to the regulated entities, except for administrative costs for enrolling in the Medicaid program. Much more than just administrative costs would result from this administrative regulation package, especially for smaller providers.

Ms. McCracken stated that KAPP represented ninety-three (93) providers that operated primarily pursuant to the SCL and Michelle P. waivers, serving approximately 10,000 patients with intellectual and developmental disabilities. KAPP was concerned with unnecessary administrative burdens that did nothing to enhance patient care. KAPP thanked the department for amendments that would decrease administrative burdens, but there were still concerns. A significant concern was expanded requirements to use the Medicaid Waiver Management Application (MWMA). The MWMA was initially intended for use in case management; however, this administrative regulation package required it for use by all service providers for all therapy notes and records. Case managers were trained to use the MWMA by a contracted entity, but service providers had not received the training. The training that was offered was inadequate. The MWMA system did not function properly. The helpdesk was not helpful, and users had to seek help from the contracted entity. Downloading notes and records into the MWMA portal was a tedious and expensive administrative process. KAPP requested that required use of the MWMA be delayed until the portal functioned properly and all affected par-ties were appropriately trained. KAPP requested that a department and service provider workgroup be established to ensure effective use of the MWMA system. KAPP requested that the paper process be allowed to continue until the MWMA system was functioning correctly and everyone was trained.

In response to questions by CoChair Harris, Ms. McCracken stated that some small service providers were still very paper oriented. These small providers may have a computer, but may not have the needed scanner to scan handwritten treatment notes. They did not have the necessary technological training to use the scanner and the MWMA portal. KAPP preferred a de-lay of at least one (1) year before expanding required use of the MWMA portal to service providers.

In response to a question by CoChair Marzian, Ms. McCracken stated that the department was unprepared to actually review all of the treatment notes and records that would be entered into the MWMA portal. Ms. Lutgens requested that service providers not be required to use the MWMA portal.

Ms. Lutgens stated that these administrative regulations basically required two (2) sets of electronic medical recordkeeping on the same patients for the same services, and both systems were essentially paid for with tax dollars. MWMA did not interface with other electronic medical recordkeeping systems; therefore, notes and records already entered into one (1) sys-tem could not be directly uploaded into the MWMA portal. Instead, those notes and records had to be printed, scanned, and then uploaded into MWMA. Taxpayers should not have to pay for duplicative electronic recordkeeping systems.

CoChair Harris requested that the department respond to the primary issues brought up during the testimony. Ms. Cecil stated that these administrative regulations authorized the establishment of a multi-therapy agency and authorized use of some licensure categories, such as a mobile health category. The SCL and Home and Community Based (HCB) waivers were on hold for renewal until the reimbursement for occupational, physical, and speech therapies were removed. CMS gave Kentucky extensions on the renewal of waivers until this matter was worked out; however, if the reimbursement for occupational, physical, and speech therapies was not removed, CMS may choose to not renew the waivers, and the programs would be lost altogether.

In response to questions by CoChair Marzian, Ms. Cecil stated that the SCL and HCB waivers were pending with CMS and had received extensions. Ms. Hoffmann stated that the extension for the HCB waiver expired today, and another extension had to be requested. If that extension is granted, the new expiration was anticipated to be in June 2016. The Michelle P. and Acquired Brain Injury – Long-term Care waivers had not expired yet, but would need to be addressed soon. Ms. Cecil stated that CMS would not allow the State Health Plan to establish a separate category for special populations regarding reimbursement rates for occupational, physical, and speech therapies. CMS would allow the State Health Plan to establish an assessment for an enhanced rate for those therapies; however, that assessment would be available for all Medicaid recipients, regardless of if they were part of a waiver program. Such an assessment would be an administrative and financial impracticality.

Ms. Hoffmann stated that three (3) of the six (6) waiver programs were already required to use MWMA. Ninety-three (93) to ninety-seven (97) percent of providers in the other three (3) waiver programs were already voluntarily using the MWMA portal. Ms. Cecil stated that MWMA was implemented too late to create an interface with existing electronic medical recordkeeping systems. The department would research interface options for future system enhancements.

In response to questions by Representative Belcher, Ms. Hoffmann stated that the department needed the daily treatment notes to verify billing and critically needed incident reports. This allowed staff to investigate evidence relevant to an incident or complaint remotely to re-duce travel costs and may reduce, although not eliminate, the number of site audits required. Ms. Cecil stated that staff who currently conducted site audits needed the treatment notes and incident reports to remotely determine if a site audit was necessary. Entering treatment notes into the portal also provided verification that the notes were being done pursuant to the requirements.

In response to questions by Co-Chairs Harris and Marzian, Ms. Hoffmann stated that all the administrative regulations in this package were interrelated; therefore, it was not possible to defer a specific administrative regulation independent of the package.

Ms. Cecil stated that MWMA training was conducted throughout the state at the initial commencement of the portal's use. There was also a training Webinar available online, and the department was available to provide onsite training for specific providers. Some service providers decided not to attend the initial training as a protest of being required to use the portal. CMS established the federal participation rates of contribution. The occupational, physical, and speech therapy rates were based on Medicare's established rates for those therapies.

In response to questions by Senator Kerr, Ms. Cecil and Ms. Hoffmann stated that the SCL and Michelle P. waiver administrative regulations needed to proceed through the promulgation process, rather than being deferred from today's Subcommittee meeting, because of federal requirements. Transfer of the occupational, physical, and speech therapy reimbursements also needed to proceed today. Medicaid expansion created all of these issues. Ms. Cecil stated that the reason for the urgency for this administrative regulation package to move forward through the process was the time it took for the department to try to compromise on some of these issues with CMS, for example to request an enhanced reimbursement rate for special populations for occupational, physical, and speech therapy reimbursement rates.

A motion was made and seconded to approve the following amendments: (1) to delete Sections 1(54), 15, 16, and 17, which were inserted in the Amended After Comments version, relating to corrective action plans, provider certification, and voluntary moratorium; (2) to amend Sections 7 and 20 to correct the names of two (2) forms incorporated by reference; (3) to amend Section 11 to clarify the incident reporting process; (4) to amend Section 12 to re-quire the department to remove from the waiting list an individual who has informed the department that the individual does not wish to continue to pursue enrollment in the program; (5) to insert a new Section 17 to establish provisions relating to federal approval and federal financial participation; and (6) to amend Sections 3, 6, 7, 8, 9, 11, 12, 18, 19, and 20 to com-ply with the drafting and formatting requirements of KRS Chapter 13A. With the objection of Representative Belcher noted, and with agreement of the agency, the amendments were approved.

Occupational, Physical, and Speech Therapy

907 KAR 8:005. Definitions for 907 KAR Chapter 8. Veronica Cecil, deputy commissioner, and Leslie Hoffmann, executive director, represented the department. Stephanie Brammer – Barnes, regulation coordinator, represented the Office of Inspector General. Chell Austin, executive director, Brain Injury Alliance of Kentucky; Beth Ennis, chair, Therapy Technical Advisory Committee for Medicaid Services; Malicia Hitch, attorney, Protection and Advocacy; Lili Lutgens, licensed clinical social worker, Therapeutic Intervention Services; Dale Lynn, vice president, Kentucky Occupational Therapy Association; Shannon McCracken, executive director, Kentucky Association of Private Providers (KAPP); Kevin McMannis, attorney, Protection and Advocacy; Jean Russell, vice president of developmental services, Seven Counties Services; Jane Stahl, state director, Neuro Restorative; and Mark White, parent of Matt White, who suffered an acquired brain injury, appeared in opposition to these administrative regulations. Steve Shannon, executive director, Kentucky Association of Regional Programs, appeared concerning 907 KAR 8:040.

In response to a question by CoChair Harris, Ms. Cecil stated that these administrative regulations established a framework to transition service providers for occupational, physical, and speech therapies currently under waiver programs, and also agencies that provided services pursuant to waiver programs so that those agencies may provide services to Medicaid recipients under the State Health Plan. Some providers and agencies that were qualified under the waiver programs would not automatically qualify pursuant to the State Health Plan be-cause the requirements were different.

Ms. Lutgens stated that Therapeutic Intervention Services provided primarily behavioral and mental health services to children and adults with intellectual and developmental disabilities, but did provide some occupational and speech therapy services and nutritional services. This administrative regulation package, through the waiver to State Health Plan transfer, effectively reduced reimbursement rates for occupational, physical, and speech therapies, regardless of how the therapies were coded. Reimbursement rates for speech therapy were significantly reduced. For children and adults with intellectual and developmental disabilities, office based speech therapy was not effective. For example, a child with acute autism or a child with cerebral palsy needed to be in a normal living environment to determine what communication was trying to be expressed in a speech therapy context. In some cases, when the speech – communication issues were addressed, the accompanying behavioral problems were also re-solved. This was not practical in an office based setting, which did not typically include care-givers in the therapy process. Home-based therapy was able to include the caregiver, which was crucial for nonverbal patients. Home-based therapy was not practicable if the reimbursement rate was too low, especially given extended travel, which meant fewer patients would receive services. In these situations, office based speech therapy was actually a waste of money because the therapy itself was ineffective under those conditions.

In response to a question by CoChair Marzian, Ms. Lutgens stated that travel to and from home-based therapy was not reimbursable, although it was tax deductible.

Ms. Russell stated that Seven Counties Services was opposed to 907 KAR 8:040 and 8:045 because the lower reimbursement rates for occupational, physical, and speech therapies would result in less patient access.

In response to questions by CoChair Marzian, Ms. Russell stated that as a waiver provider, Seven Counties Services would not automatically qualify pursuant to State Health Plan requirements. Ms. Cecil stated that, as an agency, Seven Counties Services needed licensure for those services under the State Health Plan. The department agreed to consider amending the State Health Plan and 907 KAR 8:040 to address these licensure concerns when the State Health Plan was again due for amendment. Mr. Shannon stated the State Health Plan could be amended to resolve many of these licensure issues, as well as other issues pertaining to waiver programs other than the SCL and Michelle P. programs.

Ms. McCracken stated that KAPP concurred with concerns already expressed regarding reimbursement rates for speech therapy.

Ms. Stahl stated that, as a registered nurse, mother of a child with a brain injury, and state director of Neuro Restorative, she agreed with previous testimony regarding the inadequacy of the occupational, physical, and speech therapy reimbursement rates. Neuro Restorative al-so had concerns regarding medical necessity and clinical appropriateness provisions. The Interqual system was used for determinations of medical necessity, but Interqual was not appropriate for post-acute community integrated brain injury criteria. Through Interqual, populations with brain injuries may become underserved, which may result in regression and possible institutionalization. The department should develop a platform of criteria for these populations for use in making determinations of medical necessity. 907 KAR 8:045 created a cover-age versus care situation. Reimbursement rates were tiered, and healthcare extender rates were reduced even more significantly than the reductions already discussed. Access problems and service reductions would result from such low reimbursement rates.

Mr. White stated that he represented his son, Matt White, who suffered an acquired brain injury and was currently a recipient in the Acquired Brain Injury Long-term Care waiver pro-gram. Matt White received nine (9) combined hours of occupational, physical, and speech therapy per week. Mr. White was concerned that therapy would be limited to twenty (20) hours each year unless the recipient was assessed to need more. The administrative regulations were unclear as to how many more than twenty (20) would be authorized and under what conditions and process. A break in continuation would be seriously detrimental to Matt White and would likely cause him to regress; therefore, it was important that the assessment process be time sensitive. It was unclear from these administrative regulations if more than one (1) extension of the twenty (20) visit limit was available. Without an advocate, the brain injury population would have a difficult time maneuvering through this very complicated process. The lower reimbursement rates for occupational, physical, and speech therapies may result in the loss of some of these experts from Kentucky. It was questioned why the department did not accept CMS's alternative tiering for recipients assessed to need therapy services at an enhanced re-imbursement rate.

Mr. Austin stated that the Brain Injury Alliance of Kentucky was a nonprofit organization that provided a voice to those affected by brain injury. The Brain Injury Alliance of Kentucky agreed that reduced reimbursement rates for occupational, physical, and speech therapies may create access and service problems. Community based services were less expensive in the long term and more effective than institutional services. Waiver programs should recognize the difference between medical necessity in an acute setting and clinical necessity required in a long-term setting. Disruptions in therapies were likely to result in regression, resulting in greater caregiver burden to the family and the state. The participant directed option mandating that an immediate family member shall not provide traditional waiver services would be detrimental to the care and progress of the recipient and would result in financial hardship for many Kentucky families. The Brain Injury Alliance of Kentucky requested that these administrative regulations be deferred for further consideration and meetings with stakeholders. These administrative regulations should reflect best pr11.5

education program (IEP) for children. Additionally, and children under twenty-one (21) years of age should not have a therapy allotment if the therapy is deemed medically necessary. 907 KAR 3:130 should be cross referenced, and 907 KAR 1:715 already governed school based health services, with medical necessity in these situations being barred from outside review.

Mr. McMannis stated that waiver recipients were afraid, especially regarding the twenty (20) therapy limit. There should be specific references and criteria pertaining to rehabilitive services, as opposed to just "medical necessity."

Co-Chair Harris requested that the department respond to the primary issues brought up during the testimony. Ms. Cecil stated that the reimbursement rate differential between the li-censed therapist and the assistant was already established in the State Health Plan when the plan was amended to reflect the Medicaid expansion. The current budget was based on that differential; however, the department agreed to take the differential reimbursement rate into consideration when the State Health Plan was next due for amendment.

In response to questions by Co-Chair Marzian, Ms. Cecil stated that the State Health Plan would again be due for amendment once a decision had been made regarding changes to Medicaid. The department had not been able to provide guidance on many issues up to this point because these administrative regulations were incomplete. Once final, the department would be able to fine tune these processes and be more able to address concerns and deter-mine if a CON was necessary in certain cases. Some requirements for waivers did not align directly with requirements under the State Health Plan. In order to remedy some of the issues of concern, it would be necessary to amend these administrative regulations, as well as the State Health Plan; therefore, deferral of these administrative regulations at this time was not prudent. Ms. Brammer – Barnes stated that the CON had a private office exemption established by statute and administrative regulation. If a private office or clinic was solely owned by a practitioner or a group of practitioners, in order to claim the exemption from the CON process and licensure, the owner of the facility shall be responsible for all decisions regarding patient treatment. If a facility hired a practitioner, such as a speech therapist, who was not part owner, the facility would not qualify for the exemption. Such a facility may be better served by obtaining a mobile health service provider license when that administrative regulation becomes effective.

Ms. Cecil stated that CMS would not allow the State Health Plan to establish a separate cate-gory for special populations regarding reimbursement rates for occupational, physical, and speech therapies. CMS would allow the State Health Plan to establish an assessment for an enhanced rate for those therapies; however, that assessment would be available for all Medicaid recipients, regardless of if they were part of a waiver program. Such an assessment would be an administrative and financial impracticality.

In response to questions by Co-Chair Harris, Ms. Cecil stated that after twenty (20) occupational, physical, or speech therapy visits, the additional number of visits would be individually based on need, depending on the outcome goal stated in the treatment plan developed by the therapist. The provider would make that request prior to the initial twenty (20) visits expiration, and the assessment determination was required to be made by Carewise in no more than seventy-two (72) hours.

In response to a question by Representative Belcher, Ms. Cecil stated that a student's IEP al-ready determined medical necessity. Medical necessity and therapy pursuant to an IEP was a completely separate issue and would not impact therapy relative to the State Health Plan.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) delete the definitions of "adult" and "child" because those terms were not used in 907 KAR Chapter 8; and (2) comply with the formatting requirements of KRS 13A.220(5). With-out objection, and with agreement of the agency, the amendments were approved.

907 KAR 8:040. Coverage of occupational therapy, physical therapy, and speech language pathology services provided by various entities.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 8:045. Reimbursement of occupational therapy, physical therapy, and speech language pathology provided by various entities.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies. Veronica Cecil, deputy commissioner, and Leslie Hoffmann, executive director, represented the department. Lili Lutgens, licensed clinical social worker, Therapeutic Intervention Services; Shannon McCracken, executive director, Kentucky Association of Private Providers (KAPP); and Jean Russell, vice president of developmental services, Seven Counties Services, appeared in opposition to these administrative regulations.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to: (a) delete the annual continuing education requirement for case manager super-visors and for positive behavior support specialists; and (b) revise the definition of "community access specialist" for clarity; (2) to delete Sections 1(102), 14, 15, and 16, which were inserted in the Amended After Comments version, relating to corrective action plans, provider certification, and voluntary moratorium; (3) to amend Section 3 to: (a) clarify documentation requirements for a memorandum of understanding; (b) delete the room and board limit that a residential provider may charge an SCL participant; (c) delete continuing education requirements for SCL providers; and (d) establish an option regarding crisis prevention and intervention training in which providers may propose curriculums that meet certain criteria to the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) rather than have to take the DBHDID conducted training; (4) to amend Section 4 to: (a) delete the requirement that a direct support professional supervisor sign and date when the supervisor reviewed a direct support professional's documentation; (b) delete the fading plan requirement for positive behavior support plans; (c) delete a requirement for supported employment ongoing support; and (d) establish parallel provisions to those established in 907 KAR 12:020 to avoid conflicts between the two (2) administrative regulations; (5) to amend Section 6 to: (a) delete the case management code of ethics requirement; (b) delete the requirement that a case manager be accountable to a participant, participant's person centered service team, and the case manager's employer; (c) revise documentation requirements, including deleting the monthly DBHDID approved person centered monitoring tool; and (d) revise requirements for case managers; (6) to amend Sections 7 and 8 to reduce the number of members required to serve on a human rights committee or a behavior intervention committee; (7) to amend Section 11 to clarify the incident reporting process; (8) to insert a new Section 17 to establish provisions relating to federal approval and federal financial participation; and (9) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 13, 18, 19, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A.With the objection of Representative Belcher noted, and with agreement of the agency, the amendments were approved.

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to establish parallel provisions to those established in 907 KAR 12:010 to avoid conflicts between the two administrative regulations; (2) to insert a new Section 8 to establish provisions relating to federal approval and federal financial participation; (3) to amend Section 8 and the material incorporated by reference to: (a) change the edition date; (b) comply with the drafting and formatting requirements of KRS Chapter 13A; and (c) update the requirements in the Kentucky Exceptional Supports Protocol; and (4) to amend Sections 1, 3, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. With the objection of Representative Belcher noted, and with agreement of the agency, the amendments were approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division for Behavioral Health: Mental Health

908 KAR 2:065. Community transition for individuals with serious mental illness. Justin Dearinger, regulation coordinator, and Wendy Morris, acting commissioner, represented the division. Jeff Edwards, director, Protection and Advocacy Division, appeared in support of this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the May 10, 2016, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Social Work: Board

201 KAR 23:070. Qualifying education and qualifying experience under supervision.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Home Inspectors: Board

815 KAR 6:010. Home inspector licensing requirements and maintenance of records.

815 KAR 6:040. Home inspector prelicensing providers.

815 KAR 6:080. Continuing education provider.

815 KAR 6:090. Procedures for complaints and administrative hearings.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

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

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

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

Division of Policy and Operations: Medicaid Services

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

The Subcommittee adjourned at 4:30 p.m. until May 10, 2016, at 1 p.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

December 10, 2015

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, December 10, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order. He opened the meeting with the Pledge of Allegiance and a prayer. The secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Senators Perry B. Clark, Dan "Malano" Seum, Stephen West, and Whitney Westerfield; Representatives Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: Judge Roger Crittenden, Chair, Child Fatality and Near Fatality External Review Panel; Lisa Lee, Commissioner, Department for Medicaid Services; Aaron Smith, Warden, Kentucky State Reformatory, Cookie Crews, Health Service Administrator, and Jim Erwin, Deputy Commissioner, Adult Institutions, Department of Corrections; Betsy Johnson, President, Kentucky Association of Healthcare Facilities; Sean Alteri, Director, and John Goins, Technical Services Branch Manager, Division for Air Quality.

LRC Staff: Greg Hager, Committee Staff Administrator; Mike Clark, Staff Economist; Chris Hall; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Perry Nutt; Chris Riley; Meredith Shores; William Spears; Shane Stevens; Joel Thomas; and Kate Talley, Committee Assistant.

Staff Report: *2015 Update On The Child Fatality And Near Fatality External Review Panel*

Colleen Kennedy said a statute requires the Program Review and Investigations Committee monitor the operations, procedures, and recommendations of the panel annually. The panel's charge is to conduct comprehensive reviews of child fatalities and near fatalities suspected to be a result of abuse or neglect.

The panel is in compliance with six of the seven administrative requirements in statute. The requirement has not been met that a voting member absent from two consecutive meetings be considered to have resigned and is to be replaced. Four members had two consecutive absences. Three of them are still on the panel; the other member's term ended in June 2015.

Statute requires that all copies of records provided to the panel on individual cases be destroyed, although a deadline for destruction is not specified. Paper documents are being shredded with verification provided following case reviews. Electronic records are awaiting completion of data extraction and have not yet been deleted from the panel's online system SharePoint. The Program Review report recommends that the panel may wish to create a formal policy for deleting cases stored in electronic form in SharePoint.

The panel has addressed all recommendations in its 2014 annual report. Two of the recommendations would require action by the General Assembly. One is that a process be developed for law enforcement to upload district and family court preventive and restrictive orders into the Law Information Network of Kentucky. The other is that legislation be considered to open dependency cases in Kentucky courts. The term dependency cases encompasses neglect and abuse cases tool.

In response to a question from Representative Mills, Ms. Kennedy said that the panel had not publicly discussed replacing members who have missed two or more consecutive meetings.

Representative Mills said that he was concerned with the apparent violation of the statute. Senator Carroll agreed.

Judge Crittenden said that the policy of the panel is to excuse absences for illness. No member has missed more than one half of meetings. Any member who has missed a meeting has done so due to illness or a work obligation. All panel members are engaged. The panel is not in strict compliance with the statute but is substantively in compliance.

Judge Crittenden explained that the panel has discussed destruction of electronic records. The panel still has analysts reviewing data but will discuss and develop a solution as to when electronic data are deleted.

In response to a question from Senator Carroll, Judge Crittenden explained that SharePoint is a site set up by the Commonwealth Office of Technology. Abuse reports are uploaded to the site for panel members and analysts to review. Reports can be thousands of pages. Comments and questions can be posted on the site for panel members and analysts to see.

In response to questions from Senator West, Judge Crittenden said that the panel has 20 members. Fatalities in the state have decreased. The panel has found that a large majority of fatalities and near fatalities are the result of unsafe sleeping habits and abusive head trauma. Eighty percent of fatalities and near fatalities are children less than 4 years old; 51 percent are children less than 1 year old. In those cases, the caregivers are often under the influence of drugs or alcohol. Kentucky is consistent with other states. A report from Reuter's Network was recently released about newborns being sent home with caregivers who are under the effects of opiates. The panel will look at this report in the near future. The panel's 2015 report recommends that the General Assembly enact legislation requiring that information about abusive head trauma and safe sleeping habits be sent home with parents of newborns. The panel is working with the Administrative Office of the Courts about distributing this information at drug courts.

In response to a question from Senator Carroll, Judge Crittenden said the panel looks for system flaws and communication issues. The panel is trying to get information from the Department for Community Based Services on caseload data.

Senator Carroll said based on his experience in law enforcement, workload and compensation are serious issues. He said a child in his district had burns that appeared to be from cigarettes. Nurses agreed and reported it to the state, which determined an investigation was not warranted. Upon his bringing the case to the attention of law enforcement, an investigation was conducted by law enforcement.

Judge Crittenden said the panel has seen cases in which it questioned why abuse was not substantiated by the Cabinet for Health and Family Services. The only cases the panel reviews are those in which abuse or neglect are suspected and a fatality or near fatality occurs.

Upon motion by Representative Simpson and second by Representative Mills, the report *2015 Update On The Child Fatality And Near Fatality External Review Panel* was adopted by a roll call vote.

Minutes for November 12, 2015

Upon motion by Representative Mills and second by Representative Palumbo, the minutes for the November 12, 2015, meeting were approved by voice vote, without objection.

Staff Report: ***Medical Care For Kentucky Inmates In Community Medical Facilities: Feasibility And Savings Are Uncertain***

Jean Ann Myatt said that the report covers admission of inmates who are still in custody into secured hospital or nursing facilities. It also covers admission of medical parolees into open facilities.

Medicaid will not cover health services in prisons but it will cover services for eligible inmates who are admitted as inpatients for 24 hours or longer. Some inmates are eligible for Medicaid because of age, disability, or pregnancy. Most other inmates are eligible as low-income adults under Medicaid expansion.

Secured units for inmates in hospitals save money and have been used in many states, but it appears that only one has received explicit federal Medicaid approval. If the Department of Corrections (DOC) could arrange for secured units in the Louisville area, it might save up to $833,000 in security costs annually.

As the number of inmates with nursing care needs has increased, states have looked for ways to obtain nursing care outside prisons, usually focusing on placing parolees in nursing facilities.

Shane Stevens said that savings for the state budget are limited, at least in the short term, because the DOC budget does not decrease much when someone is paroled. A prison has fixed and semi-fixed costs that it continues to pay after an inmate is released such as facility, utility, and personnel costs.

DOC would save some variable costs. In Kentucky, many state inmates are housed in local jails, for which DOC pays $31 per day. If an inmate were paroled to a nursing facility, another inmate would be moved from a local jail, so DOC would save $31 per day. There would also be smaller savings from prescriptions, consumables, and outpatient care.

For an inmate paroled and placed in a nursing facility, the state Medicaid budget must cover the cost of the nursing facility for the parolee, including its fixed costs, effectively duplicating some DOC costs. Federal Medicaid funds would probably cover most of the nursing facility payment. If the variable costs saved by DOC were greater than the state portion of the Medicaid payment, then the budget as a whole would realize some savings. An analysis of the variable costs indicates that DOC savings and state Medicaid payments are likely to be nearly the same in the short term. In the long term, there would be limited savings if enough inmates could be released to reduce the cost of the prison's medical care contract.

Van Knowles said that federal Medicaid funds are available for parolees generally, but states have had difficulty finding nursing facilities willing to accept parolees. Indiana appears to have a successful placement program.

If a nursing facility could be dedicated to serving parolees and other hard-to-place individuals, it might be possible to ensure placements and to apply federal Medicaid funds.

Some parole procedures and conditions might jeopardize federal Medicaid funds. Connecticut reported that federal funds were denied because its medical parole required the parolee to return to prison if no longer needing nursing care. Other factors that might bring funding into question are limiting the parolee's movements and not involving the parole board in the process.

A secured unit in a nursing facility similar to a secured hospital unit would be able to serve more inmates than could be paroled. There are obstacles to creating such a unit. Almost certainly, federal Medicaid funds would be denied because the inmates could not leave the unit. The state could argue that nursing facility rights do not apply to inmates, but the legal argument is untested and might require litigation.

In response to a question from Senator Carroll, Mr. Knowles said hospitals with high occupancy are less likely to have a unit for inmates. The hospital in La Grange probably did not find it profitable to have medical prisoners.

In response to questions from Representative Mills, Mr. Knowles said that the 52 inmates in need of medical care are located at the Kentucky State Reformatory and the Kentucky Correctional Institute for Women. Indiana has a successful program of placing 5 to 10 inmates per year. There is no extra security in the facilities and no known safety breaches.

In response to questions from Senator Carroll, Mr. Knowles said local jails have an agreement with the state to house class D felons. The jails receive $31 per day to care for the inmates, including $1.90 for medical expenses. If medical expenses become too high for a jail to cover, it asks the state to take the prisoner back. In regards to page 11 of the report explaining a federal regulation allowing Medicare payments for inmates, staff do not have a recommendation for the state to recover an inmate's medical cost after the inmate is paroled.

In response to questions from Senator Carroll, Mr. Erwin said the state has a medical contract that provides discounts on hospital care, pharmacy care, and specialty care. The contract does have a discount for hospital care for inmates. Ms. Lee said the report demonstrates that Medicaid approval for long-term care could be difficult, though there are potential savings to cost shift some services from DOC to the Department for Medicaid Services. Ms. Johnson said member facilities have limited protection in regard to litigation and regulatory enforcement. Facilities are unlikely to accept patients unless those conditions change. Mr. Erwin said DOC can provide information on the cost to the state of civil suits for insufficient medical care, though it is not a significant concern for the department. Ms. Crews said the healthcare company DOC contracts with is working on bringing treatments, such as chemotherapy, into the prisons rather than transporting inmates to healthcare facilities. Mr. Erwin mentioned that telehealth is part of the contract between DOC and the healthcare company.

Staff Report: ***Motor Fuel Taxes And Reformulated Gasoline In Kentucky***

Perry Nutt said that Kentucky's motor fuels tax has three components. The motor fuel excise tax varies based on the average wholesale price (AWP) of gasoline. The supplemental highway user tax (5 cents for gasoline, 2 cents for diesel) and the petroleum storage tank environmental assessment fee (1.4 cents) have fixed rates per gallon. The Department of Revenue surveys fuel wholesalers quarterly to calculate the survey AWP. Maximum and minimum values for the excise tax rate are in statute. The minimum AWP is fixed. The maximum AWP may increase up to 10 percent each year. The survey AWP is compared to the maximum and minimum AWPs to determine which value is used to calculate the 9 percent excise tax. The maximum AWP is used if the survey AWP is greater than the maximum. The minimum AWP is used if the survey AWP is less than the minimum. The survey AWP is used if the survey AWP is less than or equal to the maximum and greater than or equal to the minimum. Since 2005, the maximum AWP value has been used to calculate the excise tax rate, with a few exceptions. Some quarters in 2014 and 2015 used the survey AWP to calculate the excise tax rate.

The excise tax rate increased from 10 to 26.1 cents per gallon from 2004 to the first quarter of 2015. In FY 2015, the excise tax rate fell to 21.2 cents per gallon. HB 299, enacted in 2015, increased the minimum AWP to $2.177 per gallon, froze the excise tax rate at 19.6 cents per gallon for five quarters, stipulated that the AWP will be adjusted once annually based on a 4-quarter average, and limited the annual change in the AWP to plus or minus 10 percent. The excise tax of 19.6 cents was lower than in the third quarter of FY 2015 but higher than the rate (the minimum of 16.1 cents) that would have resulted had HB 299 not been enacted.

Kentucky's gasoline tax rate of 26 cents per gallon is about 1 cent below the national average and is close to the average of surrounding states. Kentucky's diesel tax rate of 23 cents per gallon is almost 5 cents below the national average and 3.6 cents below the average of surrounding states.

Motor fuel tax receipts are tax rates multiplied by the number of taxable gallons. Over the past 20 years, taxable gallons in Kentucky have averaged a little over 3 billion gallons per year. This means that each penny of the fuel tax equals approximately $30 million in tax receipts. Because taxable gallons have declined since 2004, the increase in motor fuel tax receipts over this period is due to higher excise tax rates.

Vehicle miles traveled and the fuel efficiency of vehicles affect the number of taxable gallons. After the 2001 recession, the number of vehicle miles traveled began to decline and then stabilized. Since 1990, average vehicle miles per gallon has increased 7.3 percent.

Meredith Shores said that the Clean Air Act (CAA) gives the US Environmental Protection Agency (EPA) the authority to regulate levels of six common pollutants under the National Ambient Air Quality Standards. One of the monitored pollutants is ground-level ozone, also known as smog. Ozone forms when nitrogen oxide and volatile organic compounds, for both of which gasoline emissions are a major source, combine with heat and sunlight. Reformulated gasoline (RFG) undergoes increased processing methods designed to decrease the amount of pollutants emitted when it is burned. The process specifically targets nitrogen oxide and volatile organic compounds.

Retailers in any region determined to have high levels of ozone in 1990 were required to sell RFG rather than conventional gasoline once the program officially began in 1995. States with regions that had some areas with higher levels of ozone had the option to opt in to the program. Governor Jones issued an executive order in 1993 enrolling Louisville and Northern Kentucky into the program. Retailers in Boone, Campbell, Jefferson, and Kenton counties, and portions of Bullitt and Oldham counties, were included.

According to the executive director of Louisville's Air Pollution Control Board, as of 2008 RFG accounted for an estimated decrease in emissions in Louisville of 7,000 pounds per summer day.

CAA has an anti-backsliding provision, which means that once pollution decreases to the desired level, that level has to be maintained. If the use of RFG were no long required, Kentucky would have to adopt other policies that would yield similar emissions reductions.

At the national level, RFG cost approximately 18 cents more per gallon in 2014. There was a 10 cent difference between prices in Louisville and Covington, which use RFG, compared to Cincinnati and Lexington, which do not. Nearly 400 million gallons of RFG were sold in Kentucky in 2014. If these differences represent the additional cost of RFG over conventional gasoline, RFG could cost Kentucky residents and businesses an estimated $40 million to $72 million per year. However, the differences could represent other factors as well as RFG.

Inhaling ozone can cause inflammation in the lining of the lungs, which can aggravate pulmonary and cardiopulmonary functions. Empirical evidence suggests that African Americans, women, children and the elderly and those with inhibited cardiopulmonary function may be at a greater risk of severe reactions from ozone exposure. Ozone levels can also produce negative environmental impacts.

In response to questions from Senator Seum, Mr. Nutt said this study deals with noncommercial vehicles.

Senator Seum said he and others have advocated eliminating the weight distance tax. He observed a 15 cent difference in the price of gas from Louisville compared to Waddy. His mileage reduction from RFG is more than 1 to 2 percent.

In response to a question from Senator Seum, Ms. Shores said the study did not address air quality credits.

In response to questions from Representative Arnold, Ms. Shores said Ohio does not have a RFG requirement. The Cincinnati area does have additional requirements for conventional gas during the summer. If Kentucky were to get rid of RFG, the state would be required to cut emissions in another way. Mr. Alteri said the CAA does take into consideration cross state pollution. Ozone is more regional in nature. The airport is a significant factor in the levels of ozone in northern Kentucky

In response to a question from Senator Seum, Mr. Alteri said that RFG was one of 10 options that Governor Jones chose to implement into the State Implementation Plan (SIP). Senator Seum requested to see the other options.

In response to questions from Senator Seum, Mr. Alteri said that Kentucky does have the option to stop using RFG, though the state will need to address the anti-backsliding provision of the CAA, get approval from EPA, and meet other requirements. Air quality continues to improve in Kentucky.

Senator Seum said that the cost of RFG cited in the report puts Kentucky at an extreme disadvantage. RFG is required in some local areas because the areas do not want to lose polluting industries. Air quality credits are used to allow polluting companies to conduct business.

In response to questions from Senator Carroll, Mr. Alteri said the industry in Calvert City, Livingston, and Paducah cause the areas to have high levels of ozone. Mr. Nutt said instead of the gas tax, a flat fee is paid by drivers of electric cars.

In response to questions from Senator West, Mr. Alteri said Covington has RFG; Cincinnati has the Reid Vapor Pressure (RVP) requirement. RVP is about 6 cents cheaper but reduces less ozone. Kentucky could use RVP if the state addresses the anti-backsliding rule. Mr. Nutt said Ohio has a flat tax on gasoline. He will provide trend information on the tax receipts. If the trend in taxable gallons is flat, it is likely that receipts have not increased much. There is not much paperwork for the state to collect the tax because the tax is collected at the wholesale level. It is possible to piggyback onto federal gas tax collection.

In response to questions from Representative Simpson, Mr. Alteri said there is no automatic mechanism in place to determine if an area no longer requires RFG. State action would be required to remove RFG in compliance with standards. EPA designates monitored areas using the metropolitan statistical area.

In response to a question from Senator Seum, Mr. Alteri said the offset program is not a 1:1 ratio as outlined by the CAA. If an area is out of attainment and emissions are added to the area, they must be offset with reductions. Offsets are tangible and monetized through the offset program.

Senator Carroll said that the plan is for the committee to meet during the session to choose topics for 2016.

The meeting was adjourned at 12:07.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

May 11, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Wednesday, May 11, 2016, 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, Julian M. Carroll, and Paul Hornback; Representatives Brad Montell, and Brent Yonts.

Guests: Phillip Brown, Danny Hall, Allen Luttrell, Brian Maynard, DJ Watson, Tim Matthews, Buryl Thompson, Philip Brashear, Jennifer Miracle, Diana Barber, Eric Pelfrey, Patrick Matheny, Randy Turner, Jim Cummings, Charlie Harman, Nikki James, Kevin Pangburn, Tim Hubbard, Teresa Gardner, Mack Gillim.

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

A motion was made by Representative Yonts to approve Minutes of the April 2016, 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 Correction List. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt Tarrant and Combs, 1600002555.

ATTORNEY GENERAL, OFFICE OF THE:

Charles J. Rickert, 1600001969.

CABINET FOR HEALTH AND FAMILY SERVICES:

Julie A. Ledford, 1600002172; James L. Sanders, 1600002478.

CORRECTIONS, DEPARTMENT OF:

Brian Williams, 1600001448.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Law Enforcement Services, Inc., 1600002138.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Consortium for Children, 1600000827.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Larry J. Sowder, 1600001510.

DEPARTMENT OF REVENUE:

Cincinnati Bell Technology Solutions, 1600001296; Billy Whittaker, 1600002263.

EASTERN KENTUCKY UNIVERSITY:

Assured Neace Lukens, 18-006.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Judy Kurtz, 1600001798; Karla H. Spencer, 1600001800; Constance M. Evans, 1600001801; Bobby S. Pace, 1600001846.

FINANCE AND ADMINISTRATION CABINET:

Blue & County, LLC, 1600002239; American Municipal Tax-Exempt Compliance Corporation, 1600002246; Arbitrage Compliance Specialists, Inc., 1600002249.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

John L Carman and Associates, Inc., 1600001100; Multi, 1600001902.

KENTUCKY COMMISSION ON MILITARY AFFAIRS:

Dale Stewart Ditto II, 1600002005.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Sirk & Company, 653; E. Clark, 654; Integra Realty Resources, 655; Crowe Horwath, LLP, 663; AHIMA Foundation, 672.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Weltman, Weinberg & Reis Co., L.P.A, 17-001; Human Development Company, Inc., 17-007.

KENTUCKY HOUSING CORPORATION:

iiWA, LLC, iiWA FY2017:4; McBrayer, McGinnis, Leslie & Kirkland, PLLC, MMLK HHF FY2017; BLX Group, LLC, PSC-BLX 2017; Goldberg Simpson, LLC, PSC-GS FY2017; Hanna Resource Group, PSC-HGR 2017; Multi, PSC-REO; Winifred K. Smith, PSC-Smith 2017; Stierle and Rettig, PLLC, Stierle FY2017:7; Law Offices of Septtimous Taylor, TAYLOR FY2017:12.

KENTUCKY LOTTERY CORPORATION:

Software Information Systems, LLC, 17-10-053; TEK Systems, 17-11-040.

KENTUCKY STATE UNIVERSITY:

Environmental Compliance Source, LLC, 16-14.

MILITARY AFFAIRS, DEPARTMENT OF:

Public Private Solutions Group, 1600001959; Dr. Abdul Kader Dahhan, MD PSC, 1600001965; Mark E. Demuth, 1600002072; Thomas P. Pendleton, Jr., 1600002139; Joseph Charles Meischke, Jr., 1600002144; Otis Edward Bailey, 1600002190; Eric F. Gray, 1600002201; Mark Allen Slaughter, 1600002349.

PERSONNEL-OFFICE OF THE SECRETARY:

Callan Associates, Inc., 1600001777.

POST SECONDARY EDUCATION, COUNCIL ON:

Legacy Consulting Group, LLC, 1600001195; Dianne Bazell, 1600001196; Management and Training Consultants, Inc., 1600001197; Norbert F. Elbert, 1600001198; Blue & County, LLC, 1600001336.

PUBLIC ADVOCACY, DEPARTMENT FOR:

John Joseph Delaney, 1600002108.

TRANSPORTATION CABINET:

Northwestern University, 1600001102.

VETERANS AFFAIRS, DEPARTMENT OF:

Baptist Health Madisonville, Inc., 1600001350; Baptist Health Madisonville, Inc., 1600001351; Baptist Health Madisonville, Inc., 1600001357; Baptist Health Madisonville, Inc., 1600001367; Spencer Ray, Inc. d/b/a/ Forward Edge Associates, 1600001533; Trilogy Rehabilitation Services, LLC, 1600001582.

WORKFORCE INVESTMENT, OFFICE OF:

Donald L. Chaffin, 1600001541; The Institute for Individual and Organizational Change, 1600001844; Tonya D. Westmoreland, 1600002052; Chua Corazon N. Drive, 1600002070

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Teddy Michael Prater, CPA, PLLC, 1600000568.

DEPARTMENT FOR NATURAL RESOURCES:

Tichenor and Associates, 1400002413.

DEPARTMENT FOR PUBLIC HEALTH:

Mayo Medical Laboratories, 1400001187.

EASTERN KENTUCKY UNIVERSITY:

Clark Schaefer Consulting, LLC, 16-157.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Florence & Hutcheson, 1200001112; Stantec Consulting Services Inc., 1400000625; Ross Tarrant Architects, Inc., 1500001017; Sherman Carter Barnhart, 1500001342; Myers Jolly Architects, 1500001832; Paladin, Inc., 1600000033; Paladin, Inc., 1600000104.

FISH & WILDLIFE, DEPARTMENT OF:

Copperhead Environmental Consulting, Inc., 1600001031.

KENTUCKY HOUSING CORPORATION:

McBrayer, McGinnis, Leslie & Kirkland, 2015-2016:8.

KENTUCKY LOTTERY CORPORATION:

Blue & Company, LLC, 16-13-029.

MOREHEAD STATE UNIVERSITY:

Sign Language Network of KY, LLC, 16-015.

TRANSPORTATION CABINET:

QK4, 1200002605; Cultural Resource Analysts, Inc., 1200003583; J M Crawford & Associates, Inc., 1300000071; URS Corporation, 1300001719; Lochner H. W., Inc. Consulting, 1300001776; Strand Associates, Inc., 1300001854; CDP Engineers, Inc., 1300002002; Burgess and Niple, Inc., 1300002065; Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1400001085; Parsons Brinckerhoff, Inc., 1400001352; Occupational Health Center of Southwest, 1400001575; Occupational Health Center of the Southwest, 1400001578; J M Crawford and Associates Inc., 1400003668; Strand Associates, Inc., 1600000506; Florence and Hutcheson, C-02374489-1; Quest Engineers, Inc., C-03117944-1; Presnell Associates Inc. d/b/a Qk4, C-03349284-1.

UNIVERSITY OF KENTUCKY:

Champlin Architecture, A151270.

UNIVERSITY OF LOUISVILLE:

Rosser International, 15-108; JRA, Inc., 15-113.

VETERANS AFFAIRS, DEPARTMENT OF:

ARH Regional Medical Center, 1400001274.

WORKER'S COMPENSATION FUNDING COMMISSION:

Goldberg Simpson, LLC, 1600000252.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Hopkins County Detention Center, 1600001402; Marion County Jail, 1600001410; Hardin County Jail, 1600001459; Hardin County Jail, 1600001504.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

University of Louisville, 1600001325; Eastern Kentucky University, 1600001441; Eastern Kentucky University, 1600001449.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Young People In Recovery, 1600000904; Kentucky Housing Corporation, 1600001113.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Madison County Fiscal Court, 1600000703; Third Rock Consultants, LLC, 1600001835.

DEPARTMENT FOR NATURAL RESOURCES:

Kentucky Capital City Airport, 1600002048.

EDUCATION, DEPARTMENT OF:

KET Foundation, 1600000976; Eastern Kentucky University, 1600001274.

FISH & WILDLIFE, DEPARTMENT OF:

Kentucky Fish & Wildlife Foundation, 1600001811.

KENTUCKY RIVER AUTHORITY:

University of Kentucky Research Foundation, 1600001526.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Morehead, 1600002103; City of Trenton City Hall, 1600002168; Madison County Fiscal Court, 1600002244; Oldham County Fiscal Court, 1600002245; City of Dawson Springs, 1600002405; City of Paducah, 1600002406; City of Guthrie, 1600002407; City of Paducah, 1600002454.

PARKS, DEPARTMENT OF:

Breaks Interstate Parks Commission, 1600001823.

TRANSPORTATION CABINET:

U.S. Army Corps of Engineers, 1600001034; Graves County Fiscal Court, 1600001748.

VETERANS AFFAIRS, DEPARTMENT OF:

North Fork Valley Community Health, 1600001492; North Fork Valley Community Health, 1600001519.

WORKFORCE INVESTMENT, OFFICE OF:

Harvard University, 1600000732; Eastern Kentucky C.E.P., Inc., 1600001242; Eastern Kentucky C. E. P., Inc., 1600001260.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Henderson County Jail, 1500001771.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1400003278.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Kentucky Housing Corporation, 1400000882; People Advocating Recovery, 1400001371; Chestnut Health Systems, Inc., 1400002831; Four Rivers Behavioral Health, 1500001721; Pennyroyal Mental Health Mental Retardation Board, 1500001722; Green River Regional Mental Health Mental Retardation Board, 1500001723; Communicare, Inc., 1500001725; Seven Counties Services, 1500001726; Northern Kentucky Regional Mental Health Mental Retardation Board, 1500001727; Comprehend, Inc., 1500001728; Pathways, Inc., 1500001729; Mountain Comp Care Center, 1500001730; Kentucky River Community Care, 1500001731; Cumberland River Behavioral Health, Inc., 1500001732; Lake Cumberland Mental Health Mental Retardation Board, 1500001733; Bluegrass.org, 1500001734; Lifeskills, Inc., 1500001993.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Eastern Kentucky University, 1500001287; Community Action Lexington-Fayette, 1500001294; Foothills Community Action, 1500001300; Northeast Kentucky Community Action Agency, 1500001307.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Trigg County, 1600000194.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Barren County Board of Education, 1400003349.

DEPARTMENT FOR MEDICAID SERVICES:

Department of Insurance, 1400001012.

EDUCATION, DEPARTMENT OF:

Franklin County Board of Education, 1500002330; Jefferson County Board of Education, 1500002342; KCTCS, 1500002505; University of Louisville Research Foundation, 1500002517; Jefferson County Board of Education, 1500002676; Jefferson County Board of Education, 1500002811; Grant County Board of Education, 1500002844; Trigg County Board of Education, 1500002855; University of Kentucky Research Foundation, 1600000482; Jessamine County Board of Education, 1600001051.

FISH & WILDLIFE, DEPARTMENT OF:

University of Wisconsin, 1500002194; City of Paducah, 1600000179.

INFRASTRUCTURE AUTHORITY:

Letcher County Fiscal Court, 0900012845; Letcher County Fiscal Court, 0900012856; Elkhorn City, 1200001031; Knott County Fiscal Court, 1200002053; City of Pikeville, 1200002480; City of Pikeville, 1200002481; City of Hanson, 1300001295; Floyd County Fiscal Court, 1300001341; Perry County Fiscal Court, 1300001502; Breathitt County Water District, 1300001835; Letcher County Fiscal Court, 1300001942; Johnson County Fiscal Court, 1300002896; Johnson County

Fiscal Court, 1300002897; Johnson County Fiscal Court, 1400001549; Mountain Water District, 1400001555; Mountain Water District, 1400001558; Floyd County Fiscal Court, 1400002042; City of Hanson, 1400002375; Harlan County Fiscal Court, 1400002385; Black Mountain Utility District, 1500000855; Perry County Fiscal Court, 1500001026; City of White Plains, 1500001104; Perry County Fiscal Court, 1500001633; Breathitt County Water District, 1500001748; Lawrence County Fiscal Court, 1500002147; Lawrence County Fiscal Court, 1500002148; City of Sebree, 1500002419; Fivco Area Development District, 1600000183; Perry County Fiscal Court, 1600000184; Clay County Fiscal Court, 1600000243; Knox County Utility District, 1600000246; Daviess County Fiscal Court, 1600000369; Daviess County Fiscal Court, 1600000370; Daviess County Fiscal Court, 1600000372; City of White Plains, 1600001121; City of Providence, 1600001250; Hancock County Fiscal Court, 1600001252.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Harlan County Fiscal Court, 0700003421; Martin County Fiscal Court, 1100001336; Muhlenberg County Fiscal Court, 1200000169; Harlan County Fiscal Court, 1200000998; Union County Fiscal Court, 1200001040; Henderson County Fiscal Court, 1200002088; Webster County Fiscal Court, 1200002596; Henderson County Fiscal Court, 1300000596; Harlan County Fiscal Court, 1300001157; Harlan County Fiscal Court, 1300001158; Union County Fiscal Court, 1300001173; Clinton County Fiscal Court, 1300001292; Henderson County Fiscal Court, 1300001434; Hopkins County Fiscal Court, 1300001470; Union County Fiscal Court, 1300001535; Union County Fiscal Court, 1300001590; Harlan County Fiscal Court, 1300001699; Harlan County Fiscal Court, 1300001701; Union County Fiscal Court, 1300001840; City of Corbin, 1300002160; Marion County Fiscal Court, 1400001401; Harlan County Fiscal Court, 1400001830; Floyd County Fiscal Court, 1400002363; Floyd County Fiscal Court, 1400002366; Menifee County Board of Education, 1400002891; Union County Fiscal Court, 1400002904; Union County Fiscal Court, 1400003452; Magoffin County Fiscal Court, 1400003537; Monroe County Fiscal Court, 1500000314; Lawrence County Fiscal Court, 1500000587; Madisonville Community College, 1500000645; Harlan County Fiscal Court, 1500000678; Harlan County Fiscal Court, 1500000679; Harlan County Fiscal Court, 1500000682; Harlan County Fiscal Court, 1500000683; Harlan County Fiscal Court, 1500000684; Harlan County Fiscal Court, 1500000685; Harlan County Fiscal Court, 1500000686; Harlan County Fiscal Court, 1500000687; Harlan County Fiscal Court, 1500000690; Harlan County Fiscal Court, 1500000691; Harlan County Fiscal Court, 1500000694; Harlan County Fiscal Court, 1500000695; Harlan County Fiscal Court, 1500000697; Harlan County Fiscal Court, 1500000698; Harlan County Fiscal Court, 1500000699; Harlan County Fiscal Court, 1500000700; Harlan County Fiscal Court, 1500000701; Harlan County Fiscal Court, 1500000702; Harlan County Fiscal Court, 1500000703; Harlan County Fiscal Court, 1500000704; Harlan County Fiscal Court, 1500000708; Harlan County Fiscal Court, 1500000712; Harlan County Fiscal Court, 1500000714; Harlan County Fiscal Court, 1500000715; Harlan County Fiscal Court, 1500000716; Harlan County Fiscal Court, 1500000719; Harlan County Fiscal Court, 1500000721; Harlan County Fiscal Court, 1500000724; Harlan County Fiscal Court, 1500000726; Harlan County Fiscal Court, 1500000727; Harlan County Fiscal Court, 1500000728; Harlan County Fiscal Court, 1500000729; Harlan County Fiscal Court, 1500000730; Hopkins County Fiscal Court, 1500000731; Hopkins County Fiscal Court, 1500000731; Madisonville Community College, 1500000733; Knox County Fiscal Court, 1500000746; City of Burgin, 1500000782; Knox County Fiscal Court, 1500000888; Knox County Fiscal Court, 1500000894; Hopkins County Fiscal Court, 1500000939; Hopkins County Fiscal Court, 1500000945; Knox County Fiscal Court, 1500001010; Menifee County Fiscal Court, 1500001019; Union County Fiscal Court, 1500001020; Menifee County Fiscal Court, 1500001060; Wolfe County Fiscal Court, 1500001115; Eastern Kentucky University, 1500001227; Letcher County Fiscal Court, 1500001380; Rockcastle County Fiscal Court, 1500001588; Knox County Fiscal Court, 1500001590; Letcher County Fiscal Court, 1500001622; Knox County Fiscal Court, 1500001811; Menifee County Fiscal Court, 1500001849; Menifee County Fiscal Court, 1500001851; Menifee County Fiscal Court, 1500001852; Johnson County Fiscal Court, 1500001856; Johnson County Fiscal Court, 1500001881; Johnson County Fiscal Court, 1500001883; Johnson County Fiscal Court, 1500001884; Johnson County Fiscal Court, 1500001887; Johnson County Fiscal Court, 1500001888; Johnson County Fiscal Court, 1500001891; Johnson County Fiscal Court, 1500001892; Johnson County Fiscal Court, 1500001893; Johnson County Fiscal Court, 1500001894; Johnson County Fiscal Court, 1500001895; Johnson County Fiscal Court, 1500001897; Menifee County Fiscal Court, 1500001960; Jackson County Fiscal County, 1500002019; Rockcastle County Fiscal Court, 1500002282; Laurel County Fiscal Court, 1500002292; Laurel County Fiscal Court, 1500002309; Union County Fiscal Court, 1500002324; Knox County Fiscal Court, 1600000005; City of Wheelwright, 1600000230; Wolfe County Fiscal Court, 1600000235; Wolfe County Fiscal Court, 1600000238; Wolfe County Fiscal Court, 1600000240; City of Wheelwright, 1600000251; Floyd County Fiscal Court, 1600000262; Floyd County Fiscal Court, 1600000276; Floyd County Fiscal Court, 1600000277; Floyd County Fiscal Court, 1600000289; Henderson County Fiscal Court, 1600000393; Floyd County Fiscal Court, 1600000399; Union County Fiscal Court, 1600000433; City of Elkhorn City, 1600000498; Henderson County Fiscal Court, 1600000628; Ohio County Fiscal Court, 1600000949; Menifee County Fiscal Court, 1600000973; Wolfe County Fiscal Court, 1600001090; Wolfe County Fiscal Court, 1600001091; Wolfe County Fiscal Court, 1600001092; Wolfe County Fiscal Court, 1600001093; Wolfe County Fiscal Court, 1600001094; Wolfe County Fiscal Court, 1600001095; Wolfe County Fiscal Court, 1600001096.

TRANSPORTATION CABINET:

Pike County Health Department, 1500002113.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR NATURAL RESOURCES:

Pinnacle Actuarial Res, Inc., 1600002062. Danny Hall and Allen Luttrell 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.

DEPARTMENT OF INSURANCE:

Visionary Insurance Examinations, Inc., 1600002191; Kathleen M. Bergan, LLC, 1600002192; Vjie, LLC, 1600002194. Brian Maynard and DJ Watson discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY:

Embanet-Compass Knowledge Group, Inc., 18-002. Tim Matthews discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

FINANCE AND ADMINISTRATION CABINET:

Madison Consulting Group, Inc., 1600002412. Buryl Thompson discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Commonwealth Economics, 660. A motion was made by Representative Yonts to defer the contract to the June meeting of the committee. Representative Montell seconded the motion, which passed.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Solaritech d/b/a The Solarity Group, 661. Philip Brashear and Jennifer Miracle discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Valenti Hanley, PLLC, 17-008. Diana Barber 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.

TOURISM DEVELOPMENT CABINET:

Searchwide Minnesota, LLC, 1600002409. Phillip Brown 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.

TRANSPORTATION CABINET:

HDR Engineering, Inc., 1600002465. Eric Pelfrey, Patrick Matheny, and Randy Turner 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.

WESTERN KENTUCKY UNIVERSITY:

Isaacson Miller, Inc., 151625. Jim Cummings 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:

EDUCATION, DEPARTMENT OF:

Walter W. Hulett, 1400003445. Charlie Harman 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 with Representative Montell voting no.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

EOP Architects, PSC, 1100002570. A motion was made by Representative Yonts to defer the contract to the June meeting of the committee. Representative Horlander seconded the motion, which passed.

TRANSPORTATION CABINET:

WMB, Inc., 1300000794. Eric Pelfrey, Patrick Matheny, and Randy Turner 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 CONTRACT FOR $10K AND UNDER WAS SELECTED FOR FURTHER REVIEW:

FINANCE AND ADMINISTRATION CABINET:

Madison Consulting Group, Inc., 1600002346. Buryl Thompson 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 MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF:

Adanta Group, 1600001356; Communicare, Inc., 1600001373; Comprehend, Inc., 1600001388; Cumberland River Comprehensive Care Center, 1600001389; Four Rivers Behavioral Health Corporate Office, 1600001391; Kentucky River Community Care, 1600001395; Lifeskills Corporation Offices, 1600001396; Mountain Comprehensive Care Center, 1600001400; Pathways, Inc., 1600001404; River Valley Behavioral Health, 1600001416. Nikki James and Kevin Pangburn discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

THE FOLLOWING MEMORANDUM OF AGREEMENTS FOR $50K AND UNDER WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Citizens Advisory Commission, 1600000701. Tim Hubbard discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

DEPARTMENT OF REVENUE:

Division of Waste Management, 1600002064. Teresa Gardner and Mack Gillim discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

EXEMPTION REQUESTS:

KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION:

The Kentucky Council on Postsecondary Education requests an exemption from the committee's routine review process for the following Grants/MOAs and will provide quarterly reports:

Title II of the workforce Innovation and Opportunity Act (formerly Workforce Investment Act)

Title IV for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Grant

Improving Teacher Quality (IEQ) State Grant (part of the No Child Left Behind Act)

Paths 2 Promise Federal Grant (pass-through funds from Department of Community Based Services' USDA primary grant, Supplemental Nutrition Assistance Program (SNAP)

Perkins Federal Grant (pass-through funds from Department of Education Services' USDOE primary grant, Perkins Leadership Program)

A motion was made by Representative Yonts to grant the request to June 30, 2018. Senator Hornback seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET, KENTUCKY HERITAGE LAND CONVERSATION FUND BOARD:

The Energy and Environment Cabinet, Kentucky Heritage Land Conversation Fund Board requests an exemption pertaining to the biennial requirement GCRC Policy Statement 99-4 and requests an exemption from the committee's routine review process and will provide quarterly reports. A motion was made by Representative Yonts to grant the request to June 30, 2018. Senator Hornback seconded the motion, which passed without objection.

With no further business before the committee, the meeting was adjourned at 11:22 a.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

May 4, 2016

Call to Order and Roll Call

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, May 4, 2016, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Paul Hornback, Dennis Parrett, and Robin L. Webb; Representatives Mike Denham, Tom McKee, Terry Mills, Jonathan Shell, and James Tipton.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy, Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy, and Maury Cox, Executive Director, Kentucky Dairy Development Council.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Marielle Manning, Committee Assistant.

Upon motion made by Representative Mills and seconded by Representative Shell, the March 2, 2016 minutes were approved, upon voice vote and without objection.

Governor's Office of Agricultural Policy

Mr. Warren Beeler, Executive Director, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), presented the projects receiving Agricultural Development Board approval at its March and April 2016 meetings. Those included approved amendments, a ham curing facility, upgrades to the 65 Kentucky Mesonet sites, an indoor agri-business facility, On-Farm Investments, Environmental Stewardship, Shared-use Programs, and major statewide or regional projects.

GOAP representatives responded to committee members' questions about the Deceased Farm Animal Removal Program and Shared-use funding commitments.

Responding to Representative Stone, Mr. McCloskey explained that the dead animal remains taken either to landfills or rendering facilities. The Shared-use Programs are either 50-50 or 75-25. In the March and April meetings, there were three shared-use programs in which the counties provided 75 percent of the purchase price and the applicants provided 25 percent.

Responding to Senator Gibson, Mr. McCloskey explained the $75 rental charge with a $10.50 per acre fee, and a $2 discount for a single usage of greater than 50 acres, for Graves County equipment. The rental money goes toward the conservation district to maintain the equipment and/or eventually to provide 25 percent of the purchase price for new equipment. There is an hourly rental fee of $20 for the Pulaski County equipment. A minimum rental is $60 or three hours. Union County provides the equipment for $20 per day. Mr. McCloskey explained the applicant received the rental money in order to fund maintenance and for new equipment purchases.

Responding to Representative Tipton, Mr. McCloskey explained there was an annual usage report required for a five year period on the equipment.

GOAP officials answered questions about the approved amendments to the CAIP program.

Responding to Representative Stone, Mr. Beeler said that 23 of the 40 young farmer applicants scored high enough and that scoring for the Next Generation Farmer program was similar to CAIP system.

The committee received reports on four regional projects: (1) Owen County 4-H Club Council Inc., approved by the board for $1,090 in Owen County funds to purchase a ham curing facility; (2) Western Kentucky University Research Foundation, Inc., approved by the board for $105,250 in State funds for instrumental upgrades to the 65 Kentucky Mesonet sites in Kentucky; (3) Gateway Gardens, LLC, approved by the board for $500,000 in state funds to establish a commercial scale automated indoor agri-business facility in Boyd County that will focus on year-round short leaf lettuce production; and (4) Appalachian Alternative Agriculture of Jackson County, Inc., approved by the board for $10,000 in Jackson County funds and $10,000 in state funds for sustaining the operation of the Jackson County Food Center to remain open for clientele to process, package, and label locally grown food to be sold as value-added products.

GOAP officials explained the Owen County 4-H club Council, Inc. project and the Western Kentucky University Research Foundation project.

GOAP officials responded to the committee members' questions about the Gateway Gardens, LLC project.

Responding to Representative McKee's question, Mr. Beeler said four individuals of Gateway Gardens, LLC, are the personal guarantees. The project is a loan that will be collateralized.

GOAP officials explained the Appalachian Alternative Agriculture of Jackson County, Inc. project.

Kentucky Dairy Development Council

Mr. Maury Cox, Executive Director, and Mr. Richard Sparrow, President, offered a presentation on the vision, mission, goals, programs, and results of the Kentucky Diary Development Council and the Kentucky Agriculture Development Fund.

In response to a question from Senator Parrett's question, Mr. Cox said about 273 dairies are in the MILK program.

Responding to Senator Gibson's question about ranking production, Mr. Cox said Kentucky ranks about 40th compared to all other states.

Responding to Representative Tipton's question, Mr. Cox the MILK program is about 68 percent in Class 1 utilization. Kentucky is probably leading the nation in the usage of compost bedded pack barns.

Responding to Senator Webb's question, Mr. Cox said one current issue is that several young producers have applied for operating loans and have been turned down because they do not have a Kentucky Nutrient Management Plan. Mr. Sparrow said the biggest limiting factor they have is the economics of producing milk in a world market. Kentucky needs to compete better with larger milk producing states or countries.

Responding to Representative Denham's question, Mr. Cox explained that only 13 dairies were lost in the first quarter, while 14 new dairies started in the first quarter. However, the problem is that milk hauling is unaffordable.

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

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 3rd Meeting of the 2016 Interim

April 25, 2016

Call to Order and Roll Call

The 3rd meeting of the Public Pension Oversight Board was held on Monday, April 25, 2016, at 12:00 PM, in Room 169 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representative Brian Linder; John Chilton, Mitchel Denham, Mike Harmon, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Bill Thielen, Executive Director, Kentucky Retirement Systems; Brian Thomas, General Counsel for Kentucky Retirement Systems; Karen Roggenkamp, Deputy Executive Director, Chief Operations Officer, Kentucky Retirement System; David Peden, Investment Officer, Kentucky Retirement System; Beau Barnes, Deputy Executive Director, Kentucky Teachers' Retirement System; and Donna Early, Executive Director, Judicial Form Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

Chairman Bowen said that the Auditor of Public Accounts, Mike Harmon, will be recognized as a non-voting member.

Approval of Minutes

Representative Linder moved that the minutes of the February 22, 2016, meeting be approved. Representative Yonts seconded the motion, and the minutes were approved without objection.

KRS Update on HB 62 Implementation & Process (handouts)

Mr. Bill Thielen, Executive Director, Kentucky Retirement Systems, introduced Board of Trustee elected members Mary Helen Peter, Vince Lange, David Rich and Ed Davis. Mr. Thielen introduced Brian Thomas, General Counsel for Kentucky Retirement Systems. Mr. Thielen stated that Mr. Thomas and staff worked on the implementation of HB 62 (RS 2015) and the administrative regulation that creates the process for the voluntary withdrawal of certain types of entities from Kentucky Retirement Systems (KRS), as long as the withdrawing agency pays the full share of the unfunded actuarial liability that exists as computed by KRS actuary. KRS is still working on an involuntary removal process as provided by HB 62.

Brian Thomas discussed HB 62 (codified in KRS 61.522), the voluntary or involuntary withdrawal mechanism for the Kentucky Employees Retirement System (KERS) and the County Employee Retirement System (CERS). HB 62 created a voluntary and involuntary cessation mechanism that requires employers to pay the full actuarial cost of withdrawal and requires KRS to promulgate an administrative regulation to assist in the implementation of the voluntary and involuntary withdrawal process. The administrative regulation is pending and is expected to become final on or before June 3, 2016.

Mr. Thomas gave a timeline and overview description of the voluntary cessation process, which commences with an application deadline in December of the year prior to the cessation date. June 30 of the cessation year is the last day that employees of the employer seeking to cease participation will earn service credit. July 1 of that particular year will start the 60 day refund process, which is set forth in the statute, and employees that choose to take the refund will be implemented as a transfer to the employer's alternative retirement plan. Those employees will be taken out of KERS or CERS and the actuarial cost will not be calculated or contributed to the ceasing employer. In December of the particular year of withdrawal, the actuarial cost will be calculated by KRS's actuary and will be presented to the Board at the December Board meeting. Assuming the actuarial cost is accepted by the Board of Trustees, it would be communicated to the withdrawing employer so a decision can be made on the withdrawal process. There is a $10,000 administrative cost to offset fees that are associated with cessation. KRS 61.522 requires that the ceasing employer, not only pay the full actuarial cost, but also pay the administrative cost of cessation.

Mr. Thomas stated that following the application in December, the Board of Trustees will meet in February. For this application period, the Board of Trustees met in February 2016 and approved the processing of three applications for cessation. Following the cessation application, KRS has to undertake an audit process of all the member accounts that are associated with those employers and attempt to clean up any data inconsistencies or errors that are associated with those particular accounts. Additionally, KRS is charged with educating the employees regarding the impact of cessation on their particular retirement accounts and has worked with employers to do so. The employee population consists of active employees of the ceasing employers, retired employees and inactive employees, meaning employees that at one time worked for the ceasing employer and who still have that service credit on the books at KRS, but are currently not earning service credit with the ceasing employer or with another participating employer.

After the June 30 of the application period, in this case 2016, there are several steps that the retirement systems and the ceasing employer must comply with. The ceasing employer will continue to make employer contributions that are equal to what it would have made regardless of the cessation process. The employer will continue to report all employees, but will not continue to report employee contributions. The 5 percent for nonhazardous employees will not come out of the employee's check, and there will be no service credit earned on or after July 1, 2016. Once the audits and the 60 day refund period is complete, the KRS actuary will simultaneously undertake the valuation for the 2016 plan year and calculate the unfunded liability cost of the ceasing employer. It is expected that the valuation and the resulting full actuarial cost will be calculated and approved by the Board of Trustees sometime in December 2016. Once an approval takes place, a 60 day notice is given to the withdrawing employers of the full actuarial cost and the employer will consider whether that cost is acceptable and may decide whether to complete the cessation process. Between February and April 2017, KRS will receive notification if the employer wants to complete the cessation process, and the final proposal may be tendered to the Board of Trustees for approval. Following the approval, employers will have 30 days to either pay by lump sum or pay an initial down payment. At this time, three employers have filed applications to cease participation: Kentucky Employees Mutual Insurance, the Council of State Governments, and the Commonwealth Credit Union.

Mr. Thielen explained that under the statute only non-stock/non-profit corporations created under Chapter 273 can utilize this voluntarily withdrawal process. Other classes of employers, such as P1 state agencies, cities, and counties, are not permitted to voluntarily withdraw under KRS 61.522.

Senator Higdon stated he had received comments from some of these entities and wanted to confirm that KRS would not give a ball park figure of the cost until the process starts. Mr. Thielen answered that is correct and the actuary has done an estimated cost utilizing current assumptions, but the first cessation date based on the statutory language is June 30, 2016, so the 2016 actual valuation would be used to compute the actual cost.

Senator Higdon asked how the lump sum payment is calculated when an employee has transferred out of the plan. Mr. Thomas answered that KRS looks at current service credit, salary, and the estimated retirement benefit, if the member is not retirement age, and projects that person forward to normal retirement age, and then looks at the assets on hand to pay those benefits. Any assets that KRS does not have to pay those benefits as of June 30, 2016, will be calculated into the full actuarial cost for that employer.

Senator Higdon asked that if all three of these entities and the employees exercise this option, what type of cash requirement the system will have to be able to pay out the benefits. Mr. Thielen answered that an estimated number has been given and an upfront administrative fee designed to cover costs including the actuarial cost. If the fee is not sufficient, KRS will bill further as part of the withdrawal costs for any additional administrative costs plus the full share of the actuarial expense.

Senator Higdon asked what type of cash flow and what type of hit are the systems taking to pay lump sum monies back to the entities that are withdrawing. Mr. Thielen answered that the entities will be paying KRS.

Senator Higdon asked if KRS has the employees' money. Mr. Thielen answered the employees can leave the money in the system or, if a refund is desired, KRS has to be notified within a 60 day period following June 30th. KRS will refund those monies and will not incorporate it into the calculation of what the employer's liability will be. In a normal year or quarter, KRS may return approximately $13 million in refunds to employees that want money back out of the system.

Senator Higdon asked if KRS was going to pay out all the money that the employees had back to this new fund that the employer set out and is it optional whether a lump sum is taken or not. Mr. Thomas answered assuming cessation is complete, the statute established a 60 day cessation refund process and, if employees apply, KRS will take the account balances and transfer those to the new retirement plan. While that does take hard assets away from the plan, actuarially it may be a benefit to the system because that liability goes with those dollars.

Chairman Yonts asked what would happen if there was a non-agreement by either side and would the process stop at that point. Mr. Thomas answered the employer that is ceasing participation can withdraw that application for cessation at any point until KRS has been told the employer wants to finalize cessation and the Board has approved, which is basically the only point at which the employer is locked in.

Chairman Yonts stated there is some anticipation of an IRS ruling that says some entity may or may not be qualified to be in this system. If this occurs, the involuntary cessation of participation would apply and KRS will determine what is paid to get out or to force the agency out. Mr. Thomas stated that is correct and KRS is developing the administrative procedures for doing that.

Chairman Yonts asked how does the existing agencies verify the accuracy of KRS's calculations and if there is data available for verification. Mr. Thomas answered that KRS provides the data that is provided to actuary on a de-identified basis by establishing age ranges, which allows the employer to estimate what the cost will be. The employer would not be able to specifically identify the actuarial cost based upon that data, but the statute establishes that KRS' actuary shall determine the actuarial cost.

Chairman Yonts asked, if a dispute between the two parties were to arise and an agreement cannot be made, would the deal be called off until such time that the IRS would say the agency must exit the system. Mr. Thielen answered in the affirmative, unless the General Assembly changes the statute. At this point KRS' actuary is only giving an estimated cost and would still have to produce a finalized actual cost.

Chairman Yonts stated that there is no process in the statute for that situation. Mr. Thielen agreed and added that KRS has tried to give as much information without violating the confidentiality statutes, because if individual employee data is given, it would be a direct contravention of the confidentially statute.

Chairman Yonts asked what happens if the employee gives permission to release that data, would that change the outcome. Mr. Thielen answered yes the employee can get that data on their own and give the data to the employer.

Chairman Bowen asked how the overhead expense is calculated and what entity will cover that cost. Mr. Thomas answered KRS is tracking the hours the retirement system employees are spending on implementing HB 62 and working on these particular audits. Additionally, there are actuarial and legal costs that are associated with the cessation, and the statute sets up a process where the employer seeking cessation is responsible for those actuarial and legal costs which is part of what the $10,000 upfront administrative costs are intended to cover. If it exceeds that $10,000 sum, the additional administrative costs would have to be paid prior to the cessation date.

Chairman Bowen asked if KRS is aware of other entities that may attempt to go through the same exercise to get out of this system. Mr. Thielen answered KRS is aware of several other entities that may be interested, but unsure if a follow through would occur.

Mr. Thielen stated that about 13.5 percent to 15 percent of KERS nonhazardous plans consist of non-stock/non-profit type entities and that any of them could seek voluntary withdrawal.

Chairman Bowen stated if KRS hears of conversation in that regard it would be important to keep the Board apprised of any developments well in advance.

Mr. Mac Jefferson asked, if the process begins, and there is gap of six months or more between the initial start date and when the settlement occurs, and if the actuarial assumptions change mid-way through that process, is the process robust enough to capture changing assumptions that would increase the liability for that exiting organization and how that would work. Mr. Thielen answered no, the statute provides the cost be determined based on the previous year's valuation using the assumptions that were in place as of the cessation date. When the Board heard about KRS lowering the assumed rate of return for this process, one of the justifications was that once the cost is determined and paid it would be final, but benefits still have to be paid out for 20 to 30 years. Going forward, if a bad experience occurs and assumptions ultimately end up changing, the state's on the hook for the additional cost. KRS wants to be careful and calculate in a fair way, but in a way that captures the cost based on today's knowledge.

Mr. Jefferson asked if it were to change, how leaving the state on the hook can be avoided. Mr. Thielen answered KRS is bound by the statute which says to determine the cost as of the previous year's valuation.

Chairman Yonts asked about the issue of Seven Counties, who left owing roughly 90 million dollars prior to the legislation's enactment, and whether this legislation could have changed the outcome. Mr. Thomas answered he believed HB 62/KRS 61.522 would have had an impact on Seven County Services, and it would have allowed KRS the ability to identify the full unfunded liability that Seven Counties was leaving behind and, if beneficial to the systems, possibly permitted that filing of a claim.

Chairman Yonts asked if the issue of bankruptcy is now on appeal to the U.S. District Court. Mr. Thielen answered that the U.S. District Court had decided in favor of Seven Counties and that KRS was going to pursue an appeal to the U.S. Circuit Court of Appeals.

Chairman Yonts asked when these three entities, and maybe more as the IRS makes a ruling, are not paying money into the system how does that impact the value of the system as far as unfunded liability. Mr. Thielen answered all these entities are trying to remove themselves from the KERS nonhazardous plan and the pension plan has $10 billion in unfunded liability right now and an additional $2 billion in health. KERS nonhazardous has about $12 billion or maybe a little under in terms of unfunded liability.

Mr. John Chilton, State Budget Director, stated that right now the employer and the employee both pay money into the system, and asked if an employee opts to cash out, will that employee get back their own money or part of what the employers pay. Mr. Thomas answered there are three tiers of benefits at KRS. Tier 1 and Tier 2 employees are basically the population that began participating prior to January 1, 2014. If those individuals choose to take the cessation refund, they will receive their account balances back which is the 5 percent or the 8 percent of pay for hazardous that they paid in plus interest. Tier 3 employees, which were established by SB 2 in 2013, are those employees will receive their 5 percent or 8 percent plus interest and in addition will receive the employer pay credit.

Mr. Chilton stated that Tiers 1 and 2 do not get any employer contribution back. Mr. Thomas answered that is correct.

Mr. Chilton asked if an employee stays in, would that person's account be in a Tier 3. Mr. Thomas answered no, for those employees that do not take the cessation refund their accounts will basically go into a hiatus, and they would be eligible to go work at another participating employer and build on that particular account, or they are eligible to leave that account until retirement eligibility.

Mr. Chilton asked how it affects an employee's account when there is an account the employees pay into and then another the employer pays into and to get out there will be an additional amount paid. Mr. Thomas answered that does not affect the employees account in any way. KERS and CERS are pooled multiple employer benefit plans and both the assets and liabilities are stretched across all participating employers. The monies that are brought in through the cessation process will be placed in a pool to pay benefits for all members of KERS or CERS.

Mr. Chilton questioned if the money is not segregated for the employees of these existing employers. Mr. Thielen answered there are some pension plans around the country that administer individual accounts but KRS does not. There is an employer account and employee account but it is a multiple employer cost sharing plan.

Senator Bowen asked if a vested employee would get employee and employer money back and if an employee that is not vested would only get employee money back. Mr. Thielen answered that if an employee working for one of these entities had ten years in the system and that service credit stops when the employer ceases to participate, the employee can leave money in until retirement eligibility and will get a benefit using a statutory formula that is based on the ten years of service. It would be high five final compensation, times the benefit factor for the plan, times the years of service. If the employee left money in and continued to work with one of these employers but then terminated and went to work for another state agency and built ten more years on to that service, then the employee would get the benefit of twenty years at retirement eligibility.

Senator Higdon stated he would like to see the relationship between the KRS Board and the General Assembly improve and perhaps have to two boards get together and discuss issues. Mr. Thielen answered that statement had been brought forward at the KRS Board meeting as well to possibly discuss things and get a better understanding of some of the issues the Board is facing.

Senator Bowen stated that he felt a discussion between the two Boards would be important. He believes there is a clear breakdown and that the perception on some sides is a little defiant by some with the KRS system, particularly as it related to the work in opposition to SB 2. Senator Bowen believes a more open conversation is important because SB 2 was all about transparency and open dialogue.

Quarterly Investment Update/Budget Update – Kentucky Retirement Systems (handout)

Mr. Thielen introduced David Peden the Investment Officer for KRS and Karen Roggenkamp the Deputy Executive Director, Chief Operations Officer. Ms. Roggenkamp is the Chief budget officer within the agency.

David Peden stated the first quarter of 2016, which is the 3rd quarter of the fiscal year, was an incredibly interesting but volatile quarter and gave some examples of what occurred. The index was down almost 5 percent in January but up over 6 percent in March, high yield was down 1.61 percent in January and was up 4.44 percent in March, and the Morgan Stanley index was down 6.79 percent in January and was up 8.21 percent in March. February was an inflection point. KRS started off first couple weeks in January as one of the worse starts to the equity markets ever, with that carrying on through the first part of February, and then February 11th was the low point in the equity markets and it is still not entirely clear what was going on. Mr. Peden explained the leading factors for the low point, including the selloff in oil commodities, material companies and their difficulties in terms of commodity prices, oil prices, materials like copper and the concern around those companies and their potential balance sheet issues and what that might lead to in terms of a mini financial issue with the banks. Also, the more obvious issues were oil countries that were relying on the price of oil and their ability to meet promised benefits to their citizens. While oil nations had rallied over the past few years, they had built up huge sovereign wealth funds and were having to sell those assets in order to meet payments promised to their citizens or at least in preparation for that prospect. In February, oil stabilized and that essentially led to a reversal in the equity markets. Mr. Peden pointed out that this was strange because equity is usually traded opposite of oil prices. The dollar had been extremely strong versus all other currency over the past few years, and that had started to reverse and many of the asset classes that had been a burden on KRS over the past 24 months started to help add value. One example is real return, inflation assets, were up 2.59 percent for the quarter. Non-U.S. equity had a sharp reversal in March which was driven by EME or emerging markets. Several meetings ago the discussion was about this asset allocation. KRS had a dedicated allocation to emerging markets which no longer exists in the portfolio, and KRS did not get the full benefit of the emerging markets rally but still had exposure. Also, value stocks have not done well until this quarter.

Mr. Peden went on to say in terms of asset classes for the quarter, everything was positive except for absolute return and it was great to see the contribution from many asset classes and that it had been a difficult period due to punishment for being diversified. Large cap equity, and to a lesser extent interest rate and fixed income, had been contributors. Finally, a well-diversified portfolio is being rewarded. As a reference, Mr. Peden explained that the asset allocation changes that occurred in January was one example, because there is going to be a bifurcation between the performances of each individual system when the end of the fiscal year is reached. A big difference will be seen between KERS hazardous, CERS hazardous, and CERS nonhazardous, versus State Police and KERS nonhazardous. The reason is the asset allocation increase in the equity exposure of the three healthy plans on the pension side, and all five systems on the insurance side. KRS was able to sell fixed income at the end of the year and buy into a low equity market in January and February and the eight healthy systems versus the two unhealthy systems have a much better return now and also through the end of the fiscal year.

Senator Higdon asked about the 7.5 percent assumption and how that had been reduced to an assumption of 6.75 percent. Mr. Peden answered that for the two unhealthy pension plans, KERS nonhazardous and State Police, had been lowered to 6.75 percent. Mr. Thielen commented that the next three months will result in getting back to zero if not better because year to date KRS is down about 1.8 percent and stated that news is not good for the year. He was hopeful that if the market continues to do well between now and June 30, so KRS can get back to at least zero or above.

Mr. Thielen stated there was an interest in determining the impact of the budget that was just passed and the cash flows for KERS nonhazardous plan in particular. KRS had staff put together charts from 1998 through fiscal year 2016 that show the difference between the contributions, inflows to each of the plans versus the outflows, and what is being paid out in benefits, refunds, and expenses. Mr. Thielen went on to state, referring to the handout, the impact of the new budget that was enacted for the 2017 and 2018 fiscal years, which showed the inflows expected and estimated for 2016. An assumption was made that the KERS nonhazardous payroll would increase 1 percent. The pension contribution on that payroll is 30.84 percent and is estimated that the total employer contribution to the pension fund will be $481 million. The employee contribution for fiscal year 2015 is estimated at $100 million with a projected net investment return of zero. A total inflow for the year would be $581.4 million. The outflows show $933 million in benefits assuming a 3 percent increase in benefits over the previous year. The refunds are kept the same at $13.5 million for 2015 and basically $10.5 million for administrative expenses. The total outflows are about $930 million. If a zero net investment return is seen, the outflows and inflows are as estimated, there will likely be a loss of about $348 million from the KERS nonhazardous asset base which would be characterized as a negative cash flow for the fund for the 2016 fiscal year.

Mr. Thielen went on to say that the 2017 employer pension contribution is going to increase from the previous 30.84 percent to 40.24 percent for KERS nonhazardous under HB 303. KRS assumed a 1 percent increase in the payroll up to $1.58 billion and that the employer contribution is going to increase from the previous years' $481 million to $633.9 million. The employee contribution, with an assumed 1 percent increase in payroll, will increase $101.4 million, and if a 6.75 percent net return on investments is achieved on the $2 billion asset base, there would be roughly $135 million in net investment returns. The total inflows would be $928.5 million in 2017 for KERS nonhazardous. The expected outflows, with a 3 percent benefit increase, are about $961 million for benefits, $13.5 million for refunds, and $10.5 million for expenses. The total outflow will be about $985 million. A negative cash flow or a decrease in the asset base will still be seen but it would only be $56.5 million compared to about $348 million the year before. Mr. Thielen continued on for fiscal year 2018. The employer pension contribution rate for KERS nonhazardous goes up to 41.06 percent of pay, resulting in an expected inflow from all income sources of $956.3 million and expected outflow of $1 billion. So again there would be a negative cash flow of $57.5 million. If benefits do not increase 3 percent or if payroll increases more than 1 percent it will offset that negative cash flow.

Senator Bowen commented that getting off of the zero in returns would help. Mr. Thielen answered this is assuming a 6.75 percent return.

Senator Bowen commented that KRS has netted down expenses and that obviously it gives a true picture of the implications and that the Board is glad there is no overhead that is not accounted for in the net figures.

James "Mac" Jefferson asked if the assumed increase in benefits of roughly 3 percent a year is just more people retiring. Mr. Thielen answered that historically benefits have gone up some every year, 3.1 percent in 2015, so the same value was used. Karen Roggenkamp also stated that baby boomers retiring provided for more eligibility. Mr. Thielen stated that at some point it would level off because the baby boomers will have retired and expects it to become much flatter a few years out.

Mike Harmon, Auditor, asked what items are included in the administrative costs. Mr. Thielen answered that it excludes investment costs because those are reported separate. Otherwise, it includes all costs for administration of the plans on the pension side. Mr. Harmon asked if administrative costs included salaries, actuarial expenses, and legal expenses. Mr. Thielen agreed and stated that the $10.5 million is the KERS nonhazardous plan share of the administrative costs. Total costs were about $31 million last year.

Senator Higdon commented about retirement legislation and that when asking about costs to the systems, a lot of times legislators are told that the actuarial analyses are indeterminable which is then taken as a green light to go ahead and pass the bill. Senator Higdon stated that in the future he will recommend retirement bills go through the A & R Committee to find out what the costs will be and that there needs to be a better understanding of costs. Mr. Thielen responded that there is almost nothing that does not have some cost and many times it is indeterminable because KRS cannot guess how many people might take advantage of a particular bill or situation.

Representative Jerry Miller stated the ROI assumption is still 7.5 percent but the 10 year return for KRS pension is 4.8 percent. Representative Miller asked with the voluntary cessation calculation, which future return is going to be used, is it the 4.8 percent that will be assessed or the 7.5 percent assumption. Mr. Thielen answered that KRS has to use the assumptions of the most recent valuation and that for the KERS nonhazardous system it is 6.75 percent.

Representative Miller stated KRS has not earned 6.75 percent over the last ten years. Mr. Thielen commented that was correct and there was discussion at one point about lowering the assumed rate of return a couple of percentage points for purposes of withdrawal.

Sharon Mattingly asked if the $10 million of KERS nonhazardous portion of the administrative costs was divided per head or pro rata. Mr. Thielen answered that at the beginning of each fiscal year KRS determines each plans percentage of participation based on the number of members. Throughout that fiscal year, based on that pro rata share of the membership, KRS assigns that percentage of administrative costs to each plan and the health plans. By statute it has to be taken out of the employer account which is within the pension plans.

Quarterly Investment Update/Budget Update – Kentucky Teachers Retirement Systems (handout)

Beau Barnes stated there is some really wonderful news and Kentucky Teachers Retirement System (KTRS) was deeply appreciative and very thankful to members of the General Assembly and the Governor for the progress that has been made in the budget for funding KTRS.

Mr. Barnes said that the additional funding that was requested by KTRS is in large part included in the budget. KTRS requested $1,030,000,000 in additional funding for the two years of the upcoming budget. At present, with the version of the budget that was passed by the General Assembly, $973,000,000 of that $1,030,000,000 was provided, which is roughly 94 percent of the additional funding requested. In the current fiscal year leading up to the new budget cycle, KTRS is projected to sell over $600,000,000 in assets to pay retirement benefits. Without the funding provided in the budget, that sum would grow to $800,000,000 in fiscal year 2017, $900,000,000 in fiscal year 2018, and so forth. With the additional funding, KTRS is projected to sell about $250,000,000 in fiscal year 2017 and $350,000,000 in fiscal year 2018. This additional funding not only allows KTRS to preserve assets, but it also provides the funding to take advantage of buying opportunities seen in the market.

Mr. Barnes went on to explain the permanent pension fund that was created by HB 238 and funded under the current version of the budget bill passed by the General Assembly. The purpose of the permanent pension fund is to address the unfunded liabilities of both KTRS and KRS. A total of $125,000,000 was appropriated to the permanent pension fund.

Turning to the quarterly update, Mr. Barnes said that KTRS' more recent returns for the quarter, fiscal year to date, and one year returns have lagged behind the benchmarks. The primary reason for the lagging returns are with actively managed equities, because active equity managers are moving away from some of the hot stocks that are overvalued. For the three and five year periods, KTRS outperformed the benchmarks and over the last 30 years, the rate of return has been 7.97 percent, which exceeds the 7.5 percent assumed rate of return. Over the last five years, KTRS ranked in the top 7 percent compared to other national large public pension plans.

Senator Bowen stated that he believes that Mr. Barnes is giving gross numbers and the handout has been netted down. The recommendation of the Board is to report the same in giving net numbers. Mr. Barnes answered he had provided net numbers here. Senator Bowen stated that on the handout were gross numbers. Mr. Barnes stated that was correct and he will have their investment accounting staff make sure that when presenting numbers in this chart (handout) that it is net numbers and will provide an updated chart to show the net numbers.Senator Bowen stated that the Board wants all systems reporting investment returns net of expenses.

Representative Graham asked if there are pieces of legislation that the General Assembly is working on to make KTRS compliant with the Internal Revenue Code, which all retirement systems are expected to comply. Further, if the statute is not addressed or changed what kind of impact would that have over the long haul. Mr. Barnes responded that the compliance language is addressed within the KTRS housekeeping bill, and it does put in the statute requirements for employers to follow to ensure compliance with the Internal Revenue Code and it is something that will need to be addressed.

Representative Graham asked how the impact will affect retirement costs. Mr. Barnes answered that it will not have an actuarial impact, but there are concerns about not having some of the requirements in statute, such as the return to work provisions. KTRS will try to encourage members and employers to voluntarily comply with these federal requirements.

Representative Graham appealed to both Chairmen, members of the State Government Committee, as well as the leadership of both the House and the Senate that this issue will be addressed in the 2017 legislative session.

Quarterly Investment Update/Budget Update – Judicial Form Retirement System (handout)

Donna Early, Executive Director, Judicial Form Retirement System (JFRS) presented an update on the budget funding for the Judicial Retirement Plan (JRP) and the Legislators' Retirement Plan (LRP). Ms. Early pointed out that the JRP funding appropriation was provided through the Judicial Budget Bill, HB 306, and the LRP appropriation was provided through the Legislative Budget Bill, HB 499, and that JFRS was pleased that the appropriation requests were met for both plans.

In reviewing the quarterly performance review, the returns for JRP and LRP were good and exceeded established benchmarks. All the performance figures that were provided have been posted to the JFRS website. She noted that JFRS has had a twenty year long standing relationship with Hilliard Lyons Trust Company and in that vein the returns that have been posted and provided have been the performance based on Hilliard Lyons solely. However, for various periods in the past portions of the portfolio were managed by another investment firm and some funds were held in a SPDR account but the impact on the reported returns is negligible. As an example, the ten year JRP performance for Hilliard Lyons was 7.98% compared to the total return of 7.92%. For twenty year returns values it will be a little different. Instead of the 8 percent return for Hilliard Lyons, the total returns will fall to 7.48 percent. It is important to realize the reported values are not actually total fund returns for the twenty year period. For the other periods, it does not have much of an impact because the funds have been all 100 percent managed by Hilliard Lyons for those periods and JFRS will make that qualification on the website.

Legislative Update (handout)

Brad Gross and Jennifer Black Hans, Legislative Research Commission staff, presented a legislative update of bills that passed the 2016 session. Mr. Gross provided an overview of HB 303, the Executive Branch Budget. He explained that the KERS and the State Police Retirement System (SPRS) remained consistent throughout the Governor's budget, the House budget, the Senate budget, with all of the funds containing the actuarially required contribution (ARC) rates for those two systems. Mr. Gross noted that when looking at the budget there will be differing numbers and percentages for the various systems, with KRS values being included as a percentage of payroll and KTRS values established as a specific dollar amount. Often people will provide projections about what those numbers are for KRS, which is similar to what Mr. Thielen did in his presentation based upon projected payroll dollar values. Additionally, supplemental or ARC + contributions for KRS were provided in the budget totaling: $58.2 million in fiscal year 2017, $67.6 million in fiscal year 2018 for the KERS nonhazardous pension fund, $15 million and $10 million in the two years for the KERS hazardous fund, and $25 million and $10 million in the two year period for the SPRS pension fund.

Relative to KTRS, Mr. Gross confirmed what Mr. Barnes had indicated. KTRS has an appropriation that funds a fixed statutory rate that has historically been in the budget plus supplemental funding. He noted that KTRS has been requesting additional funding in the budget biennium of $520 million fiscal year 2017 and $513 million in fiscal year 2018 to meet the actuarially required contribution. In the budget, additional funding of $498.5 million and $474.8 million was provided. Mr. Barnes indicated the value was roughly 94 percent combining the two years together. When taking an individual look, the additional funding amounted to roughly 96 percent and 93 percent of the ARC. Mr. Gross stated that there was a lot of discussion this year about a permanent fund or a permanent pension fund and ultimately the fund received a $125 million appropriation to assist all pension funds in the future, and $3 million of that fund will go toward the performance audit that is to be done during the biennium. Also, in reference the budget, Mr. Gross pointed out that the Governor still has line item veto privileges on HB 303. Mr. Gross went on the say that HB 306, the Judicial Branch Budget Bill and HB 499, the Legislative Branch Budget Bill, provided the full ARC to JRP and LRP funds as well.

Jennifer Hans presented HB 153, an act relating to volunteer service with an employer participating in KRS. This legislation came about as a result of volunteer service in general, but in particular firefighters' volunteer service and the run fees and reimbursements for expenses these members receive. The act amends the definition of creditable compensation to exclude fees paid to volunteers up to $500 a month. The act also allows retired volunteers to receive reimbursements for those actual expenditures without falling into the reemployment rules subject to certain specifications. Mr. Gross added from a new hire coming into the system, ultimately those volunteers will not have to participate and contribute to the retirement systems. For example, a volunteer would end up in the retirement systems if working full time for one fire department and volunteering at another where he or she received some form of compensation for volunteering. On reemployment after retirement, the act would allow some of the issues that have come up to be resolved. Now, if someone retires after being a fire fighter and then wants to go back to being a volunteer, there will be no issues when receiving some nominal form of fees.

Ms. Hans continued with HB 238, an act relating to public pension plan reporting. The act standardizes reporting requirements for actuarial analyses, reports and experience studies which are already reported to the General Assembly. This act tightens those requirements and requires a 20 year projection on these reports to detail the impact of the changes and requires a little bit more in terms of what those actuarial analyses are required to contain. It gives a tighter timeframe and more requirements in terms of what those reports need to provide to both to General Assembly and the legislative oversight committees during the session. Also, it requires the experience studies to be conducted once every five years and requires the actuarial valuations to include 20 year projections and sensitivity analysis. These are things already optional and being conducted by some of systems, but this codifies the provisions and puts these into statute. The bill also requires the PPOB to retain an actuary (costs paid by the systems) to perform an actuarial audit at least once every five years and to evaluate funding needs of the systems prior to each budget biennium. It also establishes the Permanent Pension Fund in statute. Mr. Gross added that there are multiple reports the members of the PPOB have reviewed over time, including the annual actuarial valuation and the five year experience study which is where the systems review their assumptions periodically. Also, the actuarial audit, which is a second review of the assumptions, was reviewed this past fall by the PPOB when the systems hired another actuary to perform the audit.

Ms. Hans continued with HB 271, an act relating to the Public Pension Oversight Board. It requires the state-administered retirement systems by November 15 of each fiscal year to collectively file a report to the PPOB containing the following information for each member of the system: (1) a unique identification number for each member created solely for the report; (2) the status of the member – contributing, inactive, retired, beneficiary, or retired reemployed; (3) for each retired member or beneficiary, the annualized monthly retirement allowance he or she is receiving; and (4) for each member that has not yet retired, the estimated annual retirement allowance that the member is eligible to receive at his or her normal retirement date. This is sort of the comprehensive report that would be receive to see what the membership and benefit payments look like across all of the systems.

Mr. Gross continued with HB 281, an act relating to retirement benefits for local elected officials. Relative to reemployment after retirement, HB 1 in 2008 was one of the pension reform bills of years past that dealt with reemployment after retirement and prospectively prohibited second retirement accounts from KRS and established standardized breaks in employment and prohibitions on pre-arranged agreements. What HB 281 did, was if an individual is a member in KERS or SPRS and also a Mayor or member of a city legislative body but not participating in CERS as that Mayor, then that individual could still retain the Mayor position without having to give it up upon retirement from KERS or SPRS.

Jennifer Hans continued with SB 113, an act relating to legislative recommendations from the JFRS which is a housekeeping bill. The bill makes technical and clerical changes for the Legislators' Retirement Plan and the Judicial Retirement Plan.

SB 203, was an act relating to death in the line of duty benefits. The act permits beneficiaries/spouse of a deceased member awaiting a decision regarding death as a result of an act in the line of duty to receive normal death benefits and to have benefits recalculated if a final determination results in a finding of eligibility for in the line of duty benefits. It makes provisions retroactive to any matter pending before the KRS or on appeal. Normal benefits can be received whether or not the individual has been granted the death in the line of duty benefits.

SB 206, an act relating to reemployment of retired police officers. The bill allows cities to establish a program to reemploy KERS, CERS, and SPRS retirees as police officers, provided certain requirements are met, and exempts the cities from paying employer contributions and health reimbursements to KRS for retirees reemployed under the program. Provides that individuals employed under the section may be employed for a term not to exceed one year, which may be renewed at the discretion and need of the city, and also limits the number of individuals hired by the city under the program.

SB 209, is an act relating to agencies that discontinue participation in KRS. This is a follow-up to HB 62 (RS 2015) (codified at KRS 61.522), which allows employers to voluntarily cease participation in the KERS or the CERS by paying the full actuarial costs of exiting the system and providing an alternative retirement plan to employees. SB 209 provides that the mandatory employee contributions made to the alternative retirement plans created by these non-participating employers may be "picked-up" by those employers so that the contributions will be made on a tax-deferred basis. Mr. Gross continued with the Housekeeping bills that did not pass into law. Several transparency measures, SB 2 and SB 45, resulted in multiple discussions and various proposals introduced either in floor amendments or in substitutes or other bills. He also noted a measure on funding for KTRS to pay the full ARC in future years which would address issues regarding GASB 67 reporting liabilities.

Senator Bowen commented that there is a lot of disappointment on the bills that did not pass, but that is the way the legislative process works at times. Senator Bowen said he was extremely disappointed that SB 2 did not pass and was sure that Co-Chair Yonts was equally disappointed that some of the legislation that he was interested in did not pass as well. With no further business to come before the Board, the meeting was adjourned at 1:55 p.m. The next regularly scheduled meeting of the board will be Monday, May 23, 2016 at 12:00 p.m.

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