2015 Interim
LEGISLATIVE RECORD
Volume 28, No. 6
September 2015
* Read online at www.lrc.ky.gov/legislation.htm

# David A. Byerman named new LRC Director

by Rob Weber
*LRC Public Information*

Legislative leaders voted on Sept. 23 to hire David A. Byerman on a two-year contract as the next Director of the Legislative Research Commission.

The move was expected. Legislative leaders signaled earlier in the month that Byerman was their choice for the job, pending the formal ratification of contract terms by the full 16-member Legislative Research Commission (LRC).

"I am grateful to Kentucky's legislative leaders for entrusting me with this important role," Byerman said. "I look forward to working with LRC's 390 talented and dedicated employees to provide outstanding services for legislators and the public."


**David A. Byerman**

Byerman, 44, is an award-winning legislative administrator with experience in leading governmental organizations at the state and federal levels. He served two terms as Nevada's Secretary of the Senate, the chamber's chief executive officer and parliamentarian.

Byerman is expected to start as LRC Director on October 1. As Director, he will be responsible for the performance of nonpartisan staff employed by the General Assembly and for delivering high quality, professional services to legislators and the legislature.

The Kentucky General Assembly's top leaders reviewed over thirty applications and interviewed several individuals before making Byerman their ultimate choice.

Senate President Robert Stivers said Byerman's background helped him stand apart from other applicants.

"We felt that Mr. Byerman's qualifications, along with the way he conducted himself in his interview, made him the best fit for the position, especially understanding the internal problems that we've had," President Stivers said. "I think Mr. Byerman has a very good grasp of the process and what is needed based on his prior experience, and will not have any type of preconceived notions or affiliations coming here from out of state."

House Speaker Greg Stumbo said Byerman's talents and experience make him a good fit to serve as LRC Director.

"We had many very qualified applicants, so it wasn't an easy process to go through. But I think, in the final analysis, that we've made a good choice," Speaker Stumbo said. "David Byerman brings a wealth of legislative experience with him. He is an accomplished parliamentarian and has been recognized by national organizations. I look forward to his coming on board and I think our staff will be impressed with him."

Byerman's career path has given him experience in external affairs, communications, government relations, non-profit leadership and organizational management.

He was credited with bringing innovative practices to the Nevada Senate while he served as the chamber's chief executive from 2010 to 2015. As Secretary of the Senate, Byerman was responsible for overseeing 90 session employees and managing a $21.5 million biennial budget.

Prior to serving as Nevada's Secretary of the Senate, Byerman was the U.S. Census Bureau's Chief Government Liaison for Nevada. He served twice in that role, from 1999 – 2000 and from 2008 – 2010.

Byerman has also served as Director of Communications for MGM Mirage, a Fortune 500 company; President of Byerman Solutions Group; Chief of Program Development for the Nevada Department of Transportation; Executive Assistant to Nevada Gov. Bob Miller; and Executive Director for Greater Philadelphia Clean

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# State legislators examine Aetna-Humana merger

by Jim Hannah
*LRC Public Information*

State legislators called Connecticut-based Aetna executives before them in August seeking a public assurance that the insurance giant still intends to keep jobs in Kentucky when it completes its $37 billion purchase of the Louisville-based Humana.

"I just want to be sure that Aetna is committed to Kentucky," Rep. Jeff Greer, D-Brandenburg, said on Aug. 25 while chairing a meeting of the Interim Joint Committee on Banking and Insurance. "That is what we are here about."

Fran Soistman, executive vice president of government services for Aetna, reiterated previous statements that Aetna sees no reason why it will not employee more than the current 13,000 Humana employees in Kentucky when the sale is completed. He said this would be done by placing the newly combined company's government business – including Medicaid, Medicare and TRICARE – in Louisville.

"This is a growth business," Soistman said. "The demographics of America is we are aging. Ten thousand of us every day are becoming

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eligible for Medicare. So 54 million grows to 80 million over the next 20 years."

Aetna and Humana complement each other, he said, adding Aetna focuses on the commercial insurance business while Humana has been an expert in the Medicare Advantage program.

"The combination of these two organizations will enable us to offer consumers a broader choice of products, access to higher quality and more affordable care as well as better overall experience in more geographical locations across the country," Soistman said. "We want to create a more simpler experience for consumers."

He said the purchase positions Aetna to compete in the fast-growing government business.

Humana associate general counsel Joe Ventura said one of the reasons his company entertained the idea of being sold was that Aetna recognized the value Kentucky, and more specifically Louisville, brought to Humana. He was the only Humana executive who testified before the committee.

Greer said Soistman's and Ventura's comments were encouraging.

"I think every state has a few of their signature businesses that have been successful," Greer said. "In our state we can talk about bourbon or we can talk about KFC but for me, and I'm in the insurance industry, I'll talk about Humana."

Greer then reminiscently recounted the story of about how two businessman – David A. Jones Sr. and Wendell Cherry – turned a nursing home into a healthcare giant in just three decades. As of 2014 Humana had more than 13 million customers in the United States, reported a 2013 revenue of $41.3 billion and had more than 52,000 employees. In 2013, the company ranked 73 on the Fortune 500 list, which made it the highest ranked (by revenues) company based in Kentucky.

In response to Rep. Brad Montell's question on whether less competition would mean higher premiums, Soistman acknowledged there would be cuts at the combined company. He said premiums would be kept low through eliminating redundancies in the merged company to the tune of $1.25 billion annually by 2018.

"I just know competition keeps us honest. I know we are eliminating competition," said Montell, R-Shelbyville. "I hope it isn't to the detriment of the consumer."

State Commissioner of Insurance Sharon Clark testified that her department would look at whether the merged companies would have a monopoly during Kentucky's regulatory approval process. The combined companies would insure 33 million individuals, including Humana's 3 million TRICARE members.

Clark said her department could only reject the merger if it found Humana no longer met state licensing standards, the competition will be substantially lessened, that Aetna's financial condition could jeopardize Humana's financial condition, the plans for the insurers jeopardize the policy holders or that Aetna lacks competence or integrity.

# Drug abuse a problem for state workforce, panel told

by Rebecca Hanchett
*LRC Public Information*

FRANKFORT—A 2014 federal workforce law with a local focus is helping Kentucky employers find solutions to one of their greatest hiring obstacles—drug abuse.

Many workers have necessary skills but "can't pass the drug test," state Department of Workforce Investment Commissioner Beth Kuhn told the Interim Joint Committee on Local Government on Aug. 26. She had met with around 10 employers a few weeks prior at the Governor's Mansion, many of whom she said are considering altering their drug testing policies just to get long-term, skilled, unemployed talent in the door.

"They're considering whether they might move drug testing into random testing, once you're employed," said Kuhn. "It's become too much of an impediment to hiring."

Clarifying that partnership and collaboration is "the key" under current workforce law, Kuhn said her agency plans to collaborate with the Cabinet for Health and Family Services and use its expertise on substance abuse to help address workers' and employers' needs.

"How do we match those (substance abuse) programs up with our expertise that we have in employment, and make sure that we are intervening as early as we can and supporting that worker," said Kuhn. "We're trying to put the resources in place."

Rep. Mike Denham, D-Maysville, said he was relieved to hear about agency collaboration. Companies in his area have told him, he said, that drug abuse is a huge barrier to hiring.

"Companies are telling me they are getting all the aid and assistance they need, but their biggest concern is the drug culture," Denham said.

Local boards that will impact these changes are currently being set up across the Commonwealth under the new federal law, known as the Workforce Innovation and Opportunity Act (WIOA), Kuhn said. She said local elected officials are in the process of naming members of the local boards, with all boards required to be certified by this October.

One of many counties working to get its local board organized under the WIOA is Garrard County, represented by Rep. Jonathan Shell, R-Lancaster. As in Denham's counties, Shell said drug abuse is impacting hiring there. A recent job fair in Garrard County recruiting skilled labor for jobs paying $16 to $27 an hour only drew a couple of people, he said.

"It really is becoming an epidemic," said Shell.

And it is a multi-faceted issue, one that requires workforce intervention and more, Kuhn explained.

The issue "crosses workforce, it crosses human services, it crosses education, it crosses all kinds of things," she said. "How do we focus in on making sure we minimize that reality for our individual Kentuckians?"

## Byerman, from page 1

Cities, Inc.

The winner of numerous public service awards, Byerman received the Kevin B. Harrington Award for Excellence in Democracy Education awarded by the National Conference of State Legislatures in 2014. He also received the Liberty Bell Award from the Clark County Law Foundation last year and the Jean Ford Award for Participatory Democracy from the Nevada Secretary of State in 2013.

Byerman earned his bachelor's degree, magna cum laude, from the University of Redlands in California with a double major in political science and history. He earned a Master of Governmental Administration degree from the Fels Center of Government at the University of Pennsylvania.

# Proposal would halt 'sweeping' of some excess funds

by Jim Hannah
*LRC Public Information*

NEWPORT – Calling it a bad budgetary practice, a state lawmaker told a legislative panel recently that a bill he has prefiled will discourage the use of professional licensing fees to balance the state's general fund.

"I think what I am going to present today … is the beginning of a small fix to a very large problem," said Rep. Brad Montell, R-Shelbyville.

"It's something that has been going on for a number of years in state government, but especially dating back to say 2000 and forward. The issue is sweeping money from restricted funds to the general fund."

Montell testified about the prefiled bill, known as BR 72, on Sept. 11 before the Interim Joint Committee on Licensing and Occupations. He told committee members that Kentucky "swept" $214 million last fiscal year and an additional $70 million this fiscal year.

During the past eight years $10.8 million was taken just from the Department of Housing, Buildings and Construction, Montell said. Of that amount, 62 percent came out of the department's

Rep. Brad Montell

divisions of electrical; heating, ventilation and air conditioning (HVAC); and plumbing. Montell said this caused licensing fees for those professionals to go up because those divisions depend on those fees to pay for things like inspectors.

BR 72 would only apply to the divisions of electrical, HVAC and plumbing. Those divisions could keep up to 20 percent of excess funds in restricted accounts. That is money generated from licensing fees. Montell said anything greater than 20 percent could still be used to balance the state's general fund.

BR 72 also would require licensing fees for electricians, HVAC contractors and plumbers to be reduced if excess funds are carried over on a yearly basis.

Tim House, executive director of Kentucky Association of Master Contractors, testified in support of BR 72.

"We have come to you with a problem just as we would hope you would come to a plumber with a plumbing problem, an electrician with an electrical problem and a HVAC contractor with a HVAC problem," House said. "Our problem is sweeping or transferring, whatever you want to call it, of restricted funds."

Committee member Rep. Tom Burch, D-Louisville, said the practice was a symptom of a larger problem – a broken tax system. He said more tax revenue will have to be generated in order the stop the practice.

Montell said the question is whether lawmakers want to continue the "problematic" practice or approach balancing the state's budget in a difference fashion.

Rep. Dennis Keene, D-Wilder, who chaired the meeting, said he agreed to hear testimony on BR 72 after similar legislation introduced last session generated a lot of questions from his fellow lawmakers on the committee.

"We pride ourselves on airing things like this out when we have time to debate them so when it comes time for the session, the committee is fully informed," Keene said.

# Smoking rates still high in Kentucky, panel told

by Rebecca Hanchett
*LRC Public Information*

Kentucky's smoking rate tops the nation after 15 years of targeted funding for smoking prevention programs, a state legislative oversight committee was told on Sept. 2.

The state has spent an average $3.15 million a year on tobacco abuse prevention programs since 2000, or around 5.5 percent of the CDC annual tobacco prevention funding recommendation of $57.2 million, according to a Dec. 2013 Kentucky Lung Association/Campaign for Tobacco-Free Kids report. But Kentucky's adult smoking rate is over 28 percent—the highest smoking rate in the country, according to a 2014 Gallup poll—despite funding efforts.

And while that rate is lower than it was when Kentucky began funneling part of its share of the 1998 national tobacco Master Settlement Agreement into smoking cessation programs 15 years ago (the rate was around 30 percent in 2000, according to *America's Health Rankings*) it's still high, UK Markey Cancer Center Director Dr. B. Mark Evers told the Tobacco Settlement Agreement Fund Oversight Committee.

"If you compare it to other states like Colorado and Utah that really have low smoking rates, they've also decreased but the gap (between their rates and ours) is huge," said Evers.

Evers was responding to questions by Rep. Mike Denham, who wanted to know how much the

state's smoking rate had decreased since 2000 and how much money was going into smoking cessation programs statewide.

Denham, D-Maysville, said the amount of Kentucky tobacco settlement dollars spent on smoking cessation programs in the last 15 years is somewhere around $43 million. He was curious how much money from other sources is going toward smoking cessation in the Commonwealth.

Evers said he wasn't sure. But he does know, he said, that some amount of funding comes through the National Institutes of Health and other sources, like the Kentucky LEADS lung cancer project.

"I can't give you an exact number, but it does come from other sources," said Evers.

Evers and Dr. Donald Miller, the director of the Brown Cancer Center at the University of Louisville, also shared news of cancer research that their institutions are undertaking as part of the Kentucky Lung Cancer Research Program, created under the 2000 General Assembly. The many research efforts range from sequencing of cancers to determine which mutations can be targeted for treatment to finding new tools for early cancer detection.

The state has spent an average of $3.15 million a year on tobacco abuse prevention programs since 2000.

A small chip is being developed at Brown Cancer Center that Miller said detects lung cancer by analyzing a person's breath. Miller said his center hopes to have the technology—which he said can detect lung cancer with over 90 percent accuracy—approved by the FDA in the next two years.

Over at UK, Evers told lawmakers that cancer sequencing could mean better survival rates through better drugs.

"We've really progressed…over the last 20 years from only having two or three drugs that were sometimes really toxic to patients...to really trying to drill down and precisely treat the cancer based on individual patient mutations," he said.

# 2016 Regular Session Calendar

**2016 REGULAR SESSION CALENDAR**

**JANUARY**

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

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

**FEBRUARY**

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

**( ) Denotes Legislative Day**

**2016 REGULAR SESSION CALENDAR**

**MARCH**

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

**APRIL**

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

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# Committee Meetings

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## INTERIM JOINT COMMITTEE ON EDUCATION

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

July 13, 2015

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Education was held on Monday, July 13, 2015, at 1:00 p.m., in Room 154 of the Capitol Annex. Representative Derrick Graham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Julie Raque Adams, Danny Carroll, Jimmy Higdon, Reginald Thomas, Johnny Ray Turner, Stephen West, and Max Wise; Representatives Linda Belcher, Regina Bunch, John Carney, Hubert Collins, Jim DeCesare, Jeffery Donohue, Kelly Flood, Cluster Howard, James Kay, Brian Linder, Mary Lou Marzian, Donna Mayfield, Reginald Meeks, Charles Miller, Rick G. Nelson, Ruth Ann Palumbo, Marie Rader, Jody Richards, Tom Riner, Bart Rowland, Rita Smart, Wilson Stone, Addia Wuchner, and Jill York.

Legislative Guest: Representative Arnold Simpson

Guests: Barbara Teague, Kentucky Department for Libraries and Archives (KDLA); Wayne Onkst, KDLA; Clay Combs, Education and Workforce Development Cabinet; Ann Marie Stevens, Scott County Schools and Hope Street Group (HSG); Cassie Reding, HSG; Beth Lovett, HSG; Shannon Jett, Department for Juvenile Justice; Bridgette Ramsey, Prichard Committee for Academic Excellence; Delvin Azofeifa, citizen; Dave Adkisson, Kentucky Chamber of Commerce; Roy Woods, United Way of the Bluegrass (UWBG); Bill Farmer, UWBG; Erin Klarer, Kentucky Higher Education Assistance Authority (KHEAA); and Clyde Caudill, Kentucky Association of School Administrators.

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

**Approval of Minutes of the June 8, 2015, Meeting**

Upon motion from Representative Miller and a second by Representative Collins, the minutes were approved by voice vote.

**Reports from Subcommittees**

Representative Meeks reported that the Subcommittee on Postsecondary Education met to hear an update on Commonwealth College from the Council on Postsecondary Education (CPE). Senator Carroll reported that the Subcommittee on Elementary and Secondary Education was given an overview of Kentucky's Alternate Assessment program presented by Kentucky Department of Education (KDE) staff. A complete set of minutes for each subcommittee is located in the Legislative Research Commission (LRC) library.

**Presentation: Kentucky Rising**

Dale Winkler, Associate Commissioner, Office of Career and Technical Education, KDE, stated that Kentucky Rising is an effort to increase Kentucky's global competitiveness in the high-value international trade of goods and services by exploring what it would take to achieve student outcomes comparable to the highest performing states and nations. The primary strategy will be setting new standards for high school diplomas that are rigorous, performance based, built on academic core standards, and incorporate global literacy.

Mr. Winkler stated that the National Center for Education and the Economy (NCEE) has identified nine building blocks for a world-class education system which include: strong early childhood development; more resources for at-risk students than for others; coherent instructional systems; clear gateways set to global standards; competent teachers; incentives and support for teacher performance; leadership development; and a governance system for developing and implementing coherent, powerful policies.

CPE President Bob King stated that in order to determine which of the nine building blocks to pursue, Kentucky Rising will use the results of a gap analysis performed by NCEE which compares Kentucky to the four top performing countries and states. The analysis is two-thirds complete and has been shared with the two groups driving the work of Kentucky Rising; a working group comprised of teachers and administrators in K-12 and higher education and a steering committee made up of six to seven members of the business community, college presidents, KDE departments heads, State Representative Graham and Senator Wilson, and representatives from the Prichard Committee, Kentucky Association of School Superintendents (KASS), Kentucky Education Association (KEA) and Education Professional Standards Board and several others. President King said the working groups are ready to begin building out strategies to implement in the areas of career and technical education (CTE), early childhood education, and teacher preparation.

David Adkisson, Kentucky Chamber of Commerce President, expressed that the Chamber's top strategic priority is to improve education in Kentucky. Kentucky is nationally known for education reform, and cooperation and collaboration between higher education and K-12. Kentucky Rising takes this success to another level. Mr. Adkisson said that the steering committee business community representatives are privileged to be at the table thinking about the education system and providing input.

Bridgette Ramsey, Prichard Committee for Academic Excellence, stated that the Prichard

Committee has a strong interest in the outcomes of Kentucky Rising. In 2010 the committee released the Top 20 by 2020 report, identifying 20 indicators of academic performance to track Kentucky's education progress toward the goal of being among the top 20 states in the nation in student achievement. Even though Kentucky is now in the middle tier nationally, the United States now ranks in the middle with all countries, so making it to the top 20 by 2020 does not equate to being globally competitive.

Ms. Ramsey added that Kentucky Rising will not be a new reform. If done well, it will be a strategic initiative to properly resource and strengthen Kentucky's education system and continuously improve it for years to come, putting Kentucky in the top of the national and global economy.

In response to Representative Flood's question about the Picus Odden report, commissioned by the Council for Better Education, Ms. Ramsey said that the report gives Kentucky Rising information as to how to properly resource and strengthen Kentucky's education system.

Representative Flood suggested that as we focus on developing a workforce, we remember the importance of developing an informed citizenship. Representative Flood stated that she sees assuring an abundant supply of competent teachers as the most critical building block. She added that Kentucky should continue to produce excellent data collection work for use in creating effective public policy.

In response to Senator Wilson's questions regarding identifying the education degrees and building the capacity needed to fill the skills gap and meet the demand, Mr. Winkler stated that Kentucky Rising is carefully looking at how to align programs of studies and pathways to leading Kentucky industry sectors and how to insure students are getting the skill sets needed by those industry sectors. Mr. Winkler added that the gap analysis for building block number seven, relating to effective CTE, provides interesting information about what other countries are doing to move CTE forward.

President King added that the CPE is considering a new policy that assures every high school in the state has available for its students a minimum of three college-level CTE courses and three college-level general education courses.

In response to Senator Higdon's question about recommendations from the Southern Regional Educational Board (SREB) report, Mr. Winkler explained that the recommendations implemented thus far have resulted in intensive training provided for CTE teachers on project-based learning and a financial study of CTE that has been shared with the CTE advisory committee and the Kentucky Board of Education. Mr. Winkler added that this study can be shared with the Interim Joint Committee on Education at an upcoming meeting.

In response to Representative Kay's question about the role early childhood education plays in meeting the goals of Kentucky Rising, Ms. Ramsey stated that early childhood development is a critical precursor to all the other building blocks in the Kentucky Rising framework, and therefore, is one of the first three targeted areas of work. Ms. Ramsey added that Kentucky Rising is in prime position to move forward with early childhood development work as a result of the General Assembly's support of early childhood investments such as the allocation of one-quarter of the tobacco settlement investment to early childhood education, restoration of childcare assistance program funds, and increasing access to preschool.

In response to Representative Miller's question regarding increasing the number of high performing students entering the teaching profession, President King explained that the challenge is to make admission into our teacher preparation programs more selective, provide higher salaries comparable to other professions, build a career pathway for teachers, and deploy our teachers in creative ways that are more effective and efficient.

Representative Flood said that, as we move toward greater selectivity in teaching admission in an already predominantly Caucasian female staff system, the Kentucky Chamber of Commerce should use its best wisdom to help determine how to increase salaries and reconfigure a profession that is typically underpaid.

In response to Representative Flood's comment, President King stated that part of the solution may be to actively recruit high-performing, minority students from the Advance Kentucky program into the teaching corps. Advance Kentucky currently serves around 17,000 students in schools with high proportions of low-income and minority students. The program encourages students to take advance placement courses and exams. President King said that the number of Kentucky's minority students scoring a three or above on the AP exam is 150 to 200 percent above the national average. In response to questions from Senator Raque Adams regarding funds for and the current phase of the gap analysis, President King stated that the gap analysis was paid for by the NCEE and that six of the nine areas have been completed, with the remaining three to be completed in two weeks. President King said at that point the building blocks will be prioritized and a decade-long plan will be mapped out as a starting point.

Senator Raque Adams said that as a mother of a child with learning differences, she places priority on being vigilant about building block number two, which refers to providing more resources for at-risk students than for others.

In response to Senator Raque Adams question about implementation ideas for addressing building block number nine, which refers to instituting a governance system for developing and implementing coherent policies, President King explained that the task will be to collectively evaluate our current governance system and make adjustments to strike the right balance between the KDE, local districts, and site-based decision making councils.

In response to Senator Carroll's question about CTE emerging as a priority for moving forward due to the urgency in the workforce, President King affirmed that CTE is one of the three areas to move on right away as well as early childhood education and teacher preparation.

In response to Senator West's questions regarding the NCEE, President King stated that the NCEE, located in Washington, D.C., was created 25 years ago. The NCEE is funded by competitive grants, income from their National Institute on School Leadership training program, and from an endowment that was created from income generated by the sale of a program called America's Promise to Pearson, a large textbook company. President King added that he serves on the board of NCEE.

**Presentation: Kentucky's Plan to Close Achievement Gaps**

Amanda Ellis, Associate Commissioner of Education, Office of Next Generation Learners, KDE, stated that the Education Trust analyzed Kentucky's data and identified achievement gap issues by subpopulation. Among students in grades 3-5, 6-8, and high school English II, during the 2013-14 school year, 80,097 were novice in reading and 62,450 in math.

Kelly Foster, Associate Commissioner, Office of Next Generation Schools and Districts, KDE, stated that a 40-member cross-agency team is working to close the achievement gap through novice reduction by impacting daily instruction. Eight key core work processes have been identified within the agency around which KDE will align resources so that schools in all districts are equipped to eliminate the achievement gap. These core work processes were further distilled into four basic building blocks for strengthening daily instruction which include curriculum, instruction, assessment, and learning environment.

Ms. Foster explained that KDE has taken three major action steps to support the identified key core work processes. An interactive novice reduction website has been developed as a resource for schools and districts. It will be up and running by September. Additionally, KDE now has a novice reduction coordinator and five regional novice reduction coaches who will help district and school leadership to identify their novice students and utilize KDE's resources, internally aligned specifically for closing the gap through novice reduction. Lastly, Ms. Foster explained that KDE is currently piloting the novice reduction plan in Fayette County, and next month regional coaches will be targeting other districts across the state to start with novice reduction.

In response to Representative Graham's questions about Senate Bill (SB) 168, Ms. Foster explained that the provisions of SB 168 are among 44 different statutes and regulations that the novice reduction plan seeks to incorporate. SB 168 mandates that each school submit a novice reduction plan to KDE annually. KDE monitors the process to insure that plans are submitted, but does not have the capacity to ensure their implementation; therefore, it is the responsibility of the principal, superintendent, and local board to ensure the implementation of the plan. Ms. Foster said that SB 168 also provides measures for reallocation of resources directed at low-performing schools. Additionally, the Elementary and Secondary Education Act (ESEA) flexibility waiver allows some flexibility in funding federal dollars to meet the achievement gap.

Senator Thomas said he feels that the achievement gap begins on the first day of kindergarten. He shared that a study performed by the American Federation of Teachers found that low-income students enter kindergarten with a reading vocabulary of 317, while higher-income students enter with 4000 words. Senator Thomas added that evidence shows that these low-income students never catch up.

In response to Senator Thomas's comments about closing the achievement gap by requiring mandatory early childhood education, Ms. Ellis stated that early childhood education is essential, pivotal, and ideal, but there are still other ways to successfully address the gap all the way through. As children get older, addressing the gap becomes more challenging, but is doable by improving the quality of classroom level, core instruction that has the essential components of curriculum, instruction, assessment, and learning environment in place daily.

In response to Senator Thomas's comments about closing the achievement gap by requiring mandatory parent involvement, Ms. Foster stated that parental participation is being addressed by key core work process number six, which seeks to establish a learning culture and environment through parent and community involvement.

Representative Graham suggested working with the medical community to educate young and low-income mothers about the importance of preparing their children for education by reading to and interacting with them.

Representative Flood said that health care programs like the Health Access Nurturing Development Services (HANDS) programs that support parents and the development of children, are also integral in addressing gap reduction. Representative Flood also stressed the importance of expressing to local officials and business leaders the message that today's education achievement gaps are the economic gaps of tomorrow.

In response to Representative Wuchner's question about the difference between novice reduction coaches and education recovery staff, Ms. Ellis explained that education recovery staff work directly in the bottom 5 percent of schools building sustainable systems to turn the schools around, while the novice reduction coaches will work on a higher level with district and school leadership teams to help them determine, based on their novice data, which of the aligned resources will best support the schools' or districts' needs.

In response to Senator Wilson's question about utilizing summer learning programs to address the gap, Ms. Ellis said that the work of 21st Century and Summer Learning Programs is identified in key core work process number 5, which is design, align, and deliver support processes.

Representative Palumbo thanked the presenters for their presentations and talked about the importance of basic modeling of proper grammar in instructional material.

Representative Flood thanked the presenters and expressed her appreciation for the call for a moral imperative in addressing the achievement gap.

In response to Representative Carney's question about identifying what is working well in districts with low gap and novice numbers, such as Hart County, Ms. Ellis said that part of the job of the regional novice reduction coaches, hired out of the districts they are serving, will be to identify what is working in their areas and use those strategies to build capacity within their regional area.

In response to Representative Belcher's request for data on the numbers of regular students and special education students scoring novice by county, Ms. Ellis assured that KDE will gladly provide that information.

In response to Representative Graham's question regarding the qualifications and selection of the novice reduction coaches, Ms. Foster explained that the coaches have a wide range of background experience in closing the achievement gap. Ms. Foster stated that the coaches were chosen by a selection committee within KDE and will officially begin August 1. Ms. Ellis added that KDE can provide a list of the coaches names, the levels they serve, and their backgrounds.

Representative Graham thanked the presenters and stated that he sees the achievement gap as an economic gap affecting all students across the state and closing it a necessary investment for the students and for Kentucky's economy.

**Review of Administrative Regulations**

There was no action taken on 725 KAR 1:061 and 13 KAR 2:045 & E.

**Review of Executive Order 2015-353**

There was no action taken on the executive order.

With no further business before the committee, the meeting adjourned at 3:03 p.m.

## INTERIM JOINT COMMITTEE ON EDUCATION

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

August 10, 2015

**Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on Education was held on Monday, August 10, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Mike Wilson, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Julie Raque Adams, Jared Carpenter, Danny Carroll, David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Reginald Thomas, Johnny Ray Turner, and Stephen West; Representatives Linda Belcher, George Brown Jr., Regina Bunch, John Carney, Hubert Collins, Leslie Combs, Jim DeCesare, Jeffery Donohue, Kelly Flood, Cluster Howard, James Kay, Brian Linder, Mary Lou Marzian, Donna Mayfield, Reginald Meeks, Charles Miller, Rick G. Nelson, Ruth Ann Palumbo, Marie Rader, Tom Riner, Bart Rowland, Rita Smart, Wilson Stone, David Watkins, Addia Wuchner, and Jill York.

Legislative Guest: Representative Arnold Simpson.

Guests: Brent McKim, Jefferson County Teachers Association (JCTA); Melissa Aguilar, Kentucky Workforce Innovation Board; Beth Kuhn, Department of Workforce Investment; Warren Shelton, Jefferson County Association of School Administrators (JCASA); Clyde Caudill, Kentucky Association of School Administrators (KASA).

LRC Staff: Jo Carole Ellis, Ben Boggs, Joshua Collins, and Daniel Clark.

**Approval of the Minutes of the July, 13, 2015, Meeting**

Upon motion from Representative Hubert Collins, seconded by Representative Graham, the minutes were approved by voice vote.

**Resolution in Appreciation of Commissioner Terry Holliday**

Co-Chairs Mike Wilson and Derrick Graham presented Terry Holliday, Commissioner, Kentucky Department of Education (KDE), with a resolution honoring his retirement and service to the Commonwealth as commissioner of education.

**Reports of Subcommittee Meetings**

Representative Reginald Meeks reported that the Subcommittee on Postsecondary Education met to hear a presentation on adult education from the Council on Postsecondary Education. Representative Wilson Stone reported that the Subcommittee on Elementary and Secondary Education was given an update on the implementation of recent school calendar legislation dealing with emergency snow days and the Non-Traditional Instruction Program. The subcommittee also heard presentations about Family Resource and Youth Service Centers and the Allen County Backpack Program. A complete set of minutes for each subcommittee is located in the Legislative Research Commission (LRC) Library.

**Presentation: Policies and Practices for Turning Around Persistently Low-Performing Schools**

Daniel L. Duke, Professor, University of Virginia, spoke about the evolution of school improvement and said school improvement has changed from comprehensive school reform to the replacement of personnel, from incentives to sanctions, from individual schools to school districts, and from guaranteed assistance to competition for resources.

Dr. Duke said school improvement plans need a state approved template and input from the state into the development of the plan. Also, there needs to be a state audit/evaluation of the school prior to development of the plan. In regards to school improvement planning, some state templates for plans are too extensive and state audits/evaluations can be superficial, depending on who conducts them.

Dr. Duke spoke about the federal report on state capacity to support school turnaround and said 32 states created a state office of school turnaround while 14 states used regional office staff to support school turnaround. Also, 10 states designated regional school turnaround offices, and 40 states reported significant gaps in expertise for supporting school turnaround.

Dr. Duke said there can be issues with school turnaround assistance. Turnaround partners need to be vetted carefully, and principals along with district administrators may not always be trained in contract management. Also, state experts on school turnaround may convey mixed messages and school pairings may be mismatched.

Dr. Duke spoke about school turnaround staffing issues and said turnover of personnel in low-performing schools can be very high. Also, replacing ineffective teachers is a much greater problem for rural schools, and many low-performing schools are located in districts with non-competitive salaries. Dr. Duke said there are many finance issues that plague school turnaround. There are 12 states that can withhold funding from schools that fail to improve, and there are 18 states that can direct how school improvement funds are spent. Also, there are 24 states that allow financial incentives to attract educators to low-performing schools.

Dr. Duke said some states can dictate class sizes in low-performing schools and require data-driven decision making. Some states can also require changes to the school day, school calendar, and the curriculum. Dr. Duke said required changes by states to day-to-day operations may not be effective if principals are not trained to monitor and manage changes and district leaders fail to provide support and oversight for changes. Periodic changes to state curriculum guidelines and testing programs can disrupt and derail turnaround initiatives.

Dr. Duke spoke about key factors in turning around low-performing schools and said turning a school around begins with leadership. In the absence of a capable leader, teachers are unlikely to initiate school turnaround on their own. A school turnaround specialist must convey a sense of urgency without seeming to panic and promote collaboration while avoiding groupthink. Also, a school turnaround specialist must inspire trust while letting everyone know that incompetence will not be tolerated.

Dr. Duke said to ensure first year achievement gains in turnaround schools, there must be teamwork, more time for instruction, and interventions for struggling students. There also needs to be first and second order strategies. First order strategies are the foundation of the turnaround process and are school-wide drivers of change that deal with the overall program of studies and the general operational process. Second order strategies are focused drivers of change and address specific problems related to student achievement. First and second order changes result in improved student achievement. Facilitators of change enable first and second order strategies to be implemented successfully.

Dr. Duke said to sustain success in turnaround schools there needs to be strengthening in the curriculum beyond English and math, development of a continuum of interventions, reculturing the school, recruiting and retaining capable staff, and distributing leadership. Also, school districts play a critical role in the turnaround process. Sustaining school improvement in a poorly led and ineffectively managed school districts is unlikely.

In response to Chairman Mike Wilson's questions regarding the certification process for principals in turnaround training and professional development, Dr. Duke said the University of Virginia issues a certificate for principals who complete a two-year training program. Also, there is a lot of professional development provided for teachers and principals to help with the turnaround process for schools.

In response to Senator Danny Carroll's question regarding colleges that have programs helping teachers prepare for situations in failing schools, Dr. Duke said there are urban education programs located in urban areas to help prepare teachers for school turnaround situations.

In response to Senator Reginald Thomas's question regarding universal early childhood education, Dr. Duke said universal early childhood education is one of the best options for states, especially for children who are raised in poverty.

In response to Representative Miller's question regarding whether principals should be from within a school district or brought in from outside the district for school turnaround, Dr. Duke said he does not know of any studies comparing the effectiveness of incoming principals compared to principals within a school district.

Senator Julie Raque Adams said people tend to lose sight of the students in turnaround schools because of the focus on personnel in school districts. The focus needs to be more on students' preparation for the global market place.

In response to Senator Julie Raque Adams's question regarding studies allowing superintendents to select new personnel instead of the principal, Dr. Duke said there are school districts that allow the superintendent to select new personnel but there are no systematic studies that compare the effectiveness of the superintendent hiring new personnel.

In response to Representative Reginald Meeks's question regarding Dr. Duke's opinion on best practices that other state's legislatures have used regarding to school turnaround, Dr. Duke said bipartisanship amongst state legislators on educational issues and following customization models instead of standardization models are two examples of best practices legislators can use.

In response to Representative Derrick Graham's questions regarding the elimination of external management providers in Indiana and the development of the school turnaround plan, Dr. Duke said Indiana now uses transformation zones instead of external providers and the school turnaround plan is developed in conjunction with principals, teachers, and a district leadership team.

In response to Representative Graham's follow up question regarding the use of vouchers and charter schools in low-performing school districts, Dr. Duke said his fear is public schools will be filled with students who have special needs and students who come from poverty. Charter schools and public schools should be on an even playing field.

Chairman Mike Wilson said a school's environment makes a huge difference in a school's turnaround and leadership. Warren County's Leader in Me program has been a great model for school turnaround and has had success in low-performing schools.

**Presentation: Turning Around Kentucky's Low-Performing Schools**

Tom Shelton, Executive Director, Kentucky Association of School Superintendents (KASS), said KDE works to implement the policies from the federal and state government with the level of staffing and resources it has. There needs to be much more flexibility for local school districts, and KASS needs to continue working with KDE to develop guidelines for district support and intervention for schools. KASS recommends that there be more collaboration between school-based decision making councils and the community before a school becomes low performing. Also, KASS wants to work on developing a positive environment by having the right leadership in schools and by having the school district give more input on the principal selection at low-performing schools.

Dr. Shelton said KASS believes there should be incentives for school staff to work in low-performing schools and collaborate with KDE to develop capacities at low-performing schools. In order to develop capacities in low-performing schools, there needs to be work with leadership skills of school leaders. Also, intervention for students in low-performing schools needs to happen as early as possible to help develop capacities.

Brent McKim, President, JCTA, said JCTA is very supportive of the concept of options to expand local control and flexibility at struggling schools in order to empower those schools to be more successful. When a school is not performing well, the assessments given to make this determination can have an effect on the school's performance and environment. Low test scores are a symptom of a more fundamental problem within a struggling school.

Mr. McKim spoke about New York's performance standards consortium and said New York has 28 high schools that have been granted a waiver to use an alternate assessment model rather than a multiple choice state test. The alternate assessment used by the 28 schools in New York is performance based and locally designed. Also, the 28 schools partner with higher education institutions to help train teachers to design and score local performance assessments that are very engaging for students.

Warren Shelton, Executive Director, JCASA, spoke of his experiences as a former teacher and principal at a low-performing school. Mr. Shelton said JCASA would like for school districts to have an option of what methods to use in assisting a low-performing school. Also, JCASA would recommend that there be more encouragement and incentives to place the best principals at low-performing schools without those principals risking their careers. JCASA would like for principals to not be tied up with so much data and paper work so there could more focus on the soft skills of students to help them achieve in school.

Representative Jim DeCesare said he would encourage legislators and educators to keep an open mind in regards to education. Also, there should be some consideration of limiting regulations and mandates for public schools in Kentucky.

In response to Senator Jimmy Higdon's question regarding alternate assessments for low-performing schools, Mr. McKim said it would be a good idea to offer the idea of alternate assessments and flexibility to low-performing schools as well as schools that are involved with the districts of innovation.

In response to Representative Linda Belcher's question regarding schools of innovation in Jefferson County, Mr. McKim said Jefferson County currently has two new schools of innovation that are opened and one school in the design phase.

Representative Belcher said school boards and central offices should come together and give expectations for schools in the district. Also, schools should cut down on the number of students they suspend by designing a program so those students do not miss school.

Representative Derrick Graham commended Chairman Mike Wilson for the ideas and excellent discussion brought before the committee and said he looks forward to future conversations with him on educational issues.

Chairman Mike Wilson said he stands ready to work with Representative Graham in the future and would like to come together on educational issues that need to be changed.

**Review of Administrative Regulations**

Kevin Brown, Associate Commissioner and General Counsel, KDE, explained administrative regulation 704 KAR 3:370 regarding the professional growth and effectiveness system. Also, Mr. Brown explained the proposed amendment to the regulation. The proposed amendment gives school districts an option to use a technology platform provided by KDE or use other resources at the school districts discretion.

In response to Representative Jim DeCesare's question regarding the agency amendment to the regulation, Mr. Brown said the language removed by agency amendment would not be reimplemented until the State Board of Education revised the regulation. If the amendment to the regulation is approved by the committee, professional growth would not be included as 10 percent of the state accountability system.

Representative Kelly Flood made a motion to accept the amendment to Administrative Regulation 704 KAR 3:370, and Representative Linda Belcher seconded that motion. A voice vote approved the motion.

There was no action taken on 704 KAR 5:070.

**Review of Executive Order 2015-422**

There was no action taken on the executive order.

With no further business before the committee, the meeting adjourned at 3:06 p.m.

## INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

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

August 14, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, August 14, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Joe Bowen, Tom Buford, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Ray S. Jones II, Christian McDaniel, and Dan "Malano" Seum; Representatives Tom Burch, Denver Butler, Larry Clark, Jeffery Donohue, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Charles Miller, Brad Montell, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Arnold Simpson, Diane St. Onge, and Susan Westrom.

Guests: Chris Bartley, Captain, Lexington Fire Department; Joe Baer, President, Kentucky Professional Firefighters; Ronnie Day, Director, Kentucky Fire Commission; David McCrady, Battalion Chief – Retired, Owensboro Fire Department; Victor DiPilla, Vice President and CBDO, Ted Wabler, Executive Director of Strategic Development, The Christ Hospital Health Network; Henry Miller PhD, Managing Director, Berkeley Research Group.

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

**Approval of minutes for July 10, 2015 meeting**.

A motion to approve the minutes of the July 10, 2015 meeting was made by Representative Simpson and seconded by Senator McDaniel. The motion was carried by voice vote.

**The Christ Hospital Health Network**

Victor DiPilla, Vice President and Chief Business Development Officer of the Christ Hospital Health Network, said that the hospital was founded in 1888 by Methodist missionaries with money from the Gamble family, of Proctor and Gamble fame. Due to changes in health care, the hospital has gone through changes that have brought them to the network they operate today. The mission of the Christ Hospital health network is to improve health in the community by providing exceptional outcomes, with a good patient experience. The goal of the network is to become a national leader in clinical excellence, and affordable care. The network has been rated most preferred healthcare provider in the region by the National Research Corporation for the last 19 years. Press Ganey has honored the network with a Beacon of Excellence award for patient satisfaction.

The network's facilities perform approximately 25,150 inpatient/outpatient surgeries annually. Medical staff are offered a flexible schedule, allowing surgeons to make their own choice as to staying independent or working for the network. The service area covers south east Ohio, northern Kentucky and south west Indiana. Services offered in the clinics cover musculoskeletal, heart and vascular, oncology, specialized surgery, women's health and comprehensive medicine. This keeps outpatient care more accessible and affordable to patients.

Fourteen percent of the network's business thus far in 2015 has come from northern Kentucky. Because it is important to the network to provide services where patients live, there are plans to expand outpatient clinics in Fort Wright. The network also recently acquired land in Fort Mitchell at the Drawbridge Inn site. This development will bring additional outpatient services, including an emergency department with convenient access. Speaking from an economic development standpoint, there will be new jobs for the community with an expected 200 additional professional positions.

In response to a question from Representative Simpson, Mr. DiPilla said there will not be a hospital in the Fort Mitchell location. The focus of the network is to provide outpatient services with access to short-stay care to support observation. There are no plans to build a bed tower. In response to another question from Representative Simpson, he said Ohio abandoned Certificate of Need in the late 1980's.

In response to a question from Senator Buford, Mr. DiPilla said that Medicaid is accepted at all Kentucky locations.

In response to a question from Senator McDaniel, Mr. DiPilla said the network is not subject to the provider tax that Kentucky domiciled hospitals are required to pay.

In response to a question from Representative Burch, Mr. DiPilla said although he did not have a figure to quote, the clinics have been recognized in a number of areas for clinical excellence and the hospital infection rate was extremely low.

In response to a question from Representative St. Onge, Mr. DiPilla responded that he was unsure of the exact percentage of Medicaid patients. Typically, patients are affiliated with a network physician. Therefore, if a patient required a hospitalization they would be transferred to the Mount Auburn location.

In response to a comment from Senator Schickel, Mr. DiPilla said that typically, if the care is not urgent, an indigent person would be asked to seek treatment in the clinic at the Mount Auburn location.

In response to a question from Representative Owens, Mr. DiPilla said a physician's choice of where to send a patient is a recommendation, the patient has the ultimate choice, particularly for an elective procedure. Costs for out-of-network procedures will differ than services provided in-network.

In response to a question from Senator Seum, Mr. DiPilla said the network is pleased with the transition from CON to free market in Ohio. It is believed that competition makes for better quality of care for patients.

**Firefighters' Cancer and Workers Compensation**

Chris Bartley, Captain, Lexington Fire Department, said the cancer bill has been introduced for the last five sessions. There are multiple studies to support that firefighters suffer more cancer that the general public. In 2006, the University of Cincinnati combined data from 32 studies of firefighters covering 20 different types of cancer. The risks for 10 types of cancer were significantly higher in firefighters. The National Institute for Occupational Safety and Health (NIOSH), responsible for conducting research and making recommendations for the prevention of work related injury and illness, collected information from 1950 to 2009, including 30,000 career firefighters from three major cities, also studied the issue and found that furniture that burns today is not made from natural material. Fires burn hotter, faster and release more toxins. This increases the risk for many cancers including testicular, multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, brain cancer, colon cancer, and Leukemia.

Thirty-five states have some type of cancer presumption for firefighters. Michigan and Arkansas passed bills this year. The bill introduced in the Kentucky 2015 session was restrictive in comparison to other firefighter cancer presumptive laws nationwide. The coverage expires five years after a firefighter has retired. The coverage is for both paid and volunteer firefighters. Firefighters must have been tobacco free for ten years to be covered. The coverage is for the cancers that have been scientifically linked to firefighters. This law will expire if it can no longer be financially supported by the Kentucky Fire Commission. It is estimated that the total cost to cover the workers compensation aspect is $2 million per year. Of the seven states that have presumptive coverage in place and are paying an average of one to three claims per year, there has been no increase in financial burden to the state.

Kentucky has approximately 3,700 paid firefighters and 20,000 volunteer firefighters. An evaluation by the National Council on Compensation Insurance shows negligible cost, less than three tenths of one percent of the total premium in the state. The proposed legislation would allow workers compensation to be used rather than vacation or sick time to cover leave. The Kentucky Fire Commission is paying workers compensation for 20,000 volunteer firefighters. The new legislation will bring the paid firefighters under the Fire Commission, reducing cost for cities.

David McCrady, Battalion Chief, Retired, Owensboro Fire Department, said in December of 2013 he was diagnosed with brain cancer at the age of 46. In September of 2014 he was forced to retire. The prognosis for life expectancy was three to six months. However, he has been participating in a trial cancer drug program, and it has been 20 months since his brain cancer surgery. Cancer causing agents come not just from inhaling smoke, but also comes from soot and residue left on bunker gear that has to be cleaned. Currently he participates in teaching a firefighter cancer awareness and prevention class.

In response to a question from Senator Carroll, Mr. Bartley said if the Fire Commission can no longer afford to pay claims the workers compensation payments will revert back to the cities.

In response to a question from Representative Westrom, Mr. Bartley said the International Association of Firefighters recognizes line of duty cancer deaths. Sixty percent of the names on the Fallen Fighter Memorial in Colorado are due to cancer.

In response to a question from Representative Burch, Mr. Bartley said because the session last year was 30 days long, time ran out to get the bill passed.

In response to a question from Representative Koenig, Mr. Bartley said the State Fire Commission collects a state surcharge tax to pay for the training incentive.

Representative Koenig said that the presumptive cancer bill could create a need for the administration to raise the insurance tax fee that goes to the Fire Commission to pay these costs.

In response to a question from Senator Seum, Mr. Bartley said the amount the firefighters receive from the KLEFP will not decrease if there is presumptive cancer coverage in place.

In response to a question from Representative Clark, Ronnie Day said the insurance surcharge generates approximately $60 million dollars annually for the firefighters.

Representative Butler said he felt the legislation would enhance the firefighter work place in creating a tobacco free environment. Additionally, 17,000 volunteer firefighter will become covered. The funding is from a surcharge of 1.8 percent paid on home and auto insurance policies. The split is 70 percent for police and 30 percent for firefighters. Because these funds are restricted funds, he has asked Auditor Edelen to perform an audit so that the entire amount of the funds collected can be returned to the departments.

Senator Higdon said that he was in support of the bill, but wants to better understand the payment structure.

Representative Montell said that sweeping funds should be stopped during the next session.

There being no further business to come before the committee the meeting was adjourned at 11:10 AM

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

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

August 13, 2015

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, August 13, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Albert Robinson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Will Coursey, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, C. B. Embry Jr., Carroll Gibson, Ernie Harris, Christian McDaniel, Dennis Parrett, Whitney Westerfield, Mike Wilson, and Max Wise; Representatives Tom Burch, Denver Butler, Larry Clark, Leslie Combs, Ron Crimm, David Hale, Kenny Imes, Martha Jane King, Donna Mayfield, David Meade, Terry Mills, Rick G. Nelson, Tom Riner, Dean Schamore, Rita Smart, John Tilley, and Russell Webber.

Guests: Colonel (Ret.) David Thompson, Executive Director, Kentucky Commission on Military Affairs (KCMA); Representative Greg Stumbo, Speaker of the House, and Bud Smith, WWII Veteran; and Commissioner Heather French Henry, Kentucky Department of Veterans Affairs.

LRC Staff: Erica Warren, Kristopher Shera, Jessica Zeh, and Rhonda Schierer.

**Approve Minutes**

A motion and a second were made to approve the July 9, 2015, committee meeting minutes. The motion carried by a unanimous voice vote, and the minutes were approved.

**Kentucky Commission on Military Affairs: Briefing on Military Activity in Kentucky**

Colonel (Ret.) David Thompson, Executive Director, Kentucky Commission on Military Affairs (KCMA) gave a PowerPoint presentation on military activity in Kentucky. COL Thompson briefed the committee on KCMA's goals, which include protecting and growing Kentucky Department of Defense (DoD) installations, strengthening the defense-related economy in Kentucky, communicating strategically, and conducting inter-agency program support for a strong military in Kentucky.

COL Thompson discussed the military friendliness of state-level policies and legislation. Kentucky has an excellent record in regard to retirees and veterans and he also gave some areas for consideration. Several states offer 100 percent exemption on property taxes for service-connected totally disabled and also some level of exemption for other veterans who are not disabled. He added that 22 states exempt 100 percent of military pensions from taxation or achieve the same effect through the lack of state income tax. He stated that these things should be considered in Kentucky to compete. For military and families who are currently serving, Kentucky is among the best in the country with 120 plus pieces of military-friendly legislation over the past several years. The military student identifier is also something to consider next session as it is something DOD wants to pursue at the state and federal level.

KCMA's economic development initiatives for 2015-2016 are to discover opportunities and encourage growth of businesses and employment in defense and related industries. Over the next 12 months KCMA is undertaking in-depth studies on unmanned aerial systems, aviation, aerospace and defense, economic importance of Kentucky's military installations, veterans, and cyber security. The results will establish an updated knowledge base for KCMA, Cabinet for Economic Development (CED), local, regional and state leaders, will inform legislators of opportunities for legislation, and enable CED and KCMA to partner effectively in support of future growth.

COL Thompson gave an installation update on Fort Knox, Fort Campbell, and the Blue Grass Army Depot. Fort Knox has a new medical facility projected for RFP in late 2015, and there were no reductions in the latest round of force structure cuts. There are several long-term growth objectives under study, and the local advocacy organization is expanding. Fort Campbell has been minimally impacted by the latest round of force structure cuts. It has a public partnership effort underway to enable the use of Army owned rail for benefit of the mega-site at Hopkinsville and they are constructing a five megawatt solar array. The Bluegrass Army Depot is $7 million ahead in revenue this fiscal year. Milcon consolidated a shipping facility for FY 16 execution, and the Blue Grass Army Depot saved about $10 million in process improvements this year as a result of aggressive cost avoidance efforts. The Chemical Demilitarization Plant is approximately 98 percent construction complete with an approximate date of completion being October 28, 2015.

COL Thompson gave a brief update on Base Re-Alignment and Closure (BRAC). DoD has excess infrastructure and desires a BRAC round to reduce the inventory and associated costs. DoD is taking risk in infrastructure to fund readiness, and increasing longer-term costs associated with facilities sustainment. Congressional resistance to BRAC is decreasing. If a BRAC is authorized in 2017 or soon thereafter, DoD would spend about $6 billion during the six year implementation period, but would expect to recoup approximately $6 billion within that same six year period. Following that initial six year period, BRAC reductions in infrastructure would result in $2 billion in annual recurring savings. Kentucky would prepare by having a Strength, Weakness, Opportunities and Threats (SWOT) analysis and strategic plan. The SWOT plan would pursue installation-specific strategies designed to leverage strengths, mitigate weaknesses, exploit opportunities and defend against threats, enhance the military value of the installations, reduce installation operations costs and ensure that data is accurate. COL Thompson stated that the way ahead in 2015-2016 is through installations and economic development. The installations would advance mission growth targets outlined within the SWOT analysis and strategic plan, support growth of local and regional advocacy groups, and monitor military construction projects. The economic development federal grant will support economic development studies related to defense, support the Fort Campbell Army railhead co-use partnership, identify public-public and public-private partnerships with the Army, and support small business opportunities with DoD and defense contractors.

In response to a question from Representative Burch, COL Thompson stated that technology is much needed, however it does not replace the need for soldier intensive action and it cannot replace ground troops. COL Thompson added that there are 32 Brigade teams and three of them are at Ft. Campbell, which is 10 percent of the Army's capability.

In response to a question from Senator Parrett, COL Thompson stated that the solar activity at Fort Knox is helping Kentucky be a leader. He added that energy efficiency was a part of the Silver Award Fort Knox received and that Kentucky is well positioned to come off the energy grid at some point in the future.

In response to a question from Chair Robinson, COL Thompson stated that Fort Knox has a $2.5 billion dollar impact, and the most number of retired military live in that region.

In response to a question from Senator Carroll, COL Thompson stated that there is not a policy established at this time regarding drones and the many issues that surround them on a state and local level. COL Thompson indicated that there will be an available proposal within the next 20 days. Also, the results of the study will be available during the upcoming legislative session.

**Veterans Benefits**

Representative Greg Stumbo, Speaker of the House, and Bud Smith, WWII Veteran, discussed Mr. Smith's plight with the United States Department of Veterans Affairs to grant Mr. Smith his veteran's benefits. Mr. Smith is a 93 year old veteran who has been denied his veteran's benefits all these years and he also lost his mining pension as a result of his situation. Mr. Smith's found out that his papers had been burned in a fire where they were housed in St. Louis. Following Mr. Smith's discharge, he had a copy of his service records and discharge papers placed on record in the Floyd County Clerk's Office which proves his service. Mr. Smith wanted to tell his story for the sake of others who could have had similar problems and did not where to turn for help. Members were intrigued with how remarkable and interesting Mr. Smith's war time stories and memorabilia were. All members regretted that Mr. Smith had gone so many years without benefits and expressed their gratitude for him bringing the issue forward for the sake of others who could be going through something similar or for his service to our country. Speaker Stumbo told members of the committee that before he and Mr. Smith came to the meeting, Commissioner Heather French Henry had contacted his office and assured him that the Kentucky Department of Veterans Affairs is going to make sure that Mr. Smith's situation is resolved and that he receives his benefits.

Commissioner Henry testified that a horrible injustice had been put upon Mr. Smith and she apologized on behalf of Veterans Affairs. Commissioner Henry explained that Veterans Affairs now has an updated system that uses digital files that will ensure that future records will never be lost. She and her expert staff are available to members for veteran's benefits questions.

**Other Business**

Chair Robinson welcomed Representative David Hale as a new member to the Committee.

**Adjournment**

There being no further business, the meeting adjourned.

## INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

### Minutes of the Third Meeting of the 2015 Interim

August 19, 2015

**Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 19, 2015, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 1:10 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Tom Burch, Co-Chair; Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Reginald Thomas, and Max Wise; Representatives Robert Benvenuti III, Bob M. DeWeese, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, Russell Webber, Susan Westrom, and Addia Wuchner.

Guests: Brett Bachmann, CEO, and Debbie Woods, Education Director, Heuser Hearing and Language Academy; Debbie Anderson, Commissioner, and Tonia Wells, Senior Policy Advisor, Department for Aging and Independent Living, Cabinet for Health and Family Services; Leslie Hoffmann, Behavioral Health Policy Advisor and Director Division of Community Alternatives; Lynne Flynn, Policy Advisor, Commissioner's Office, Department for Medicaid Services, Cabinet for Health and Family Services; Beth Jurek, Executive Director, Office of Policy and Budget, Cabinet for Health and Family Services; MaryLee Underwood, JD, BSW, Executive Director, Commonwealth Council on Developmental Disabilities; Todd Hollenbach, Kentucky State Treasurer; Maggie Krueger, Family Member, President, NAMI Somerset; Chris Whittington, Consumer, Peer Support Specialist, Participation Station, Lexington; Sheila A. Schuster, Ph.D., Psychologist, Executive Director, Kentucky Mental Health Coalition; Maryellen Mynear, Inspector General, Jennifer Mayes, Policy Analyst, Stephanie Brammer-Barnes, Regulation Coordinator, Al Irvin, Project Manager, Cabinet for Health and Family Services; Eric DeYoung, President, Kentucky Occupational Therapy Association; Phil Bunning and James Haggie, NAMI Kentucky; Karen Ricci, Counsel on Developmental Disabilities; Patty Dempsey, The Arc of Kentucky; Bill Doll, Kentucky Medical Association; Tonya Watts, Opportunity for Work and Learning; and Mary Hass, Brain Injury Association of Kentucky.

Guest Legislator: Representative Mike Denham.

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

**Minutes**

A motion to approve the minutes of the July 15, 2015 meeting was made by Senator Adams, seconded by Representative Burch, and approved by voice vote.

**Legislative Hearing on Executive Reorganization Order 2015-397 Relating to the Advisory Council on Autism**

The executive order establishes the Advisory Council on Autism Spectrum Disorders as an organizational unit and administrative body attached to the Cabinet or Health and Family Services. Beth Jurek, Executive Director, Office of Policy and Budget, Cabinet for Health and Family Services, was present for questions. A motion to accept Executive Reorganization 2015-397 was made by Senator J. Carroll, seconded by Senator Wise, and accepted by voice vote.

**Court-Ordered Outpatient Treatment – Tim's Law**

Sheila A. Schuster, Ph.D., Psychologist, Executive Director, Kentucky Mental Health Coalition, stated that Tim's law would help the young people who are diagnosed with serious brain diseases today receive the treatment that could save their lives and give them a good quality of life. If enacted during the 2016 Regular Session, Tim's Law (BR 14) would strengthen KRS 202A.081 which permits individuals with brain diseases or severe mental illness involuntarily committed to the hospital to be discharged on the condition that they agree to and comply with court-ordered or assisted outpatient treatment (AOT). In 2015, the Substance Abuse and Mental Health Services Administration (SAMHSA) listed AOT as an evidence-based program and added it to the National Registry of Evidence-Based Programs and Practices (NREPP). The law would also create a new procedure for a narrowly-defined number of individuals to access outpatient treatment under a court order without having to again be involuntarily committed. Tim's law would be funded with 100 percent state funds.

Chris Whittington, Consumer, Peer Support Specialist, Participation Station, Lexington, stated that he works at Eastern State Hospital. He was diagnosed with depression then bi-polar disorder then schizophrenia. He had to find the proper medications to help treat his illness. He is very grateful for all the support he was given by family and friends. He stated that it is meaningful to help others struggling with mental illnesses. Tim's law would provide support, access, and care.

Maggie Krueger, Family Member, President, NAMI Somerset, stated that all mental illnesses are treatable. Approximately 80 percent of individuals with a mental illness function through efforts of their families. No one chooses to live with a mental health illness. Most people with a mental health illness do not believe they have a problem. There is no way to know when someone could have a mental breakdown. A large majority of society does not understand mental health issues.

In response to a comment by Senator Harper Angel, Dr. Schuster stated that more jails have people with mental health issues than treatment facilities.

Representative Burch stated that he and others have worked for four years trying to get Tim's law enacted.

Senator Carroll stated how proud he was of the efforts Mr. Reynolds made to change his life and now helps others with the same problems he has faced.

Representative Wuchner stated that most families have someone with a mental health illness. Victims of mental health illness never know when an episode will occur.

**ABLE Act**

MaryLee Underwood, JD, BSW, Executive Director, Commonwealth Council on Developmental Disabilities, stated that the Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act was signed into law on December 19, 2014. The law creates a new Section in the Internal Revenue Code 529A establishing new tax-favored qualified ABLE savings account programs. The ABLE Program accounts are intended to be easy to open and available in any state, although each state will need to enact legislation before the federal law applies. Assets in an ABLE account and distributions from the account for qualifying expenses would be disregarded or receive special treatment when determining the beneficiary's eligibility for most federal means-tested such as Medicaid, Supplemental Security income (SSI), and other important federal benefits for people with disabilities. Without these accounts, many people with disabilities have very limited avenues to save and allow for further independence. Contributions to the ABLE accounts are made with post-tax dollars and distributions are tax exempt if used for approved purposes.

To be eligible for the ABLE accounts, an individual has to be disabled before the age of 26 years and have been determined to meet disability requirements for SSI or Social Security disability benefits in Title XVI or Title II of the Social Security Act. Qualified expenses include education, housing, transportation, employment training and support, assistive technology, health and wellness, administrative support, burial expenses, and legal fees. Assets remaining in the account when a beneficiary dies will be used to reimburse the state for Medicaid payments made on behalf of the beneficiary after the creation of the ABLE account.

Since 2014, twenty-eight states have enacted ABLE account legislation. The program would be housed in the Kentucky State Treasury who can contract for administration of the program or contract with another state.

Lynn Braker, mother of three-year old with Down Syndrome, stated that she has owned a staffing agency for 21 years. Approximately 160 companies she represents are willing to hire individuals with disabilities.

State Treasurer Todd Hollenbach stated that he is in full support of the legislation, and agrees that the program should be housed within the Kentucky State Treasury.

Representative Mike Denham, co-sponsor of the legislation, stated that there is a real need to enhance the quality of life for individuals with disabilities.

**Heuser Hearing and Language Academy**

Brett Bachmann, CEO, and Debbie Woods, Education Director, Heuser Hearing and Language Academy (HHLA), stated that Heuser works with Kentucky's First Steps program to provide early intervention as soon as a child is diagnosed with hearing loss. Each classroom has state-of-the art technology, SMART board technology, computers, and iPads. In 2001, Heuser Hearing Institute established clinic services to serve patients from birth to life. The services span from vestibular to hearing amplification. Children are taught by a Master's Level Deaf Educator. Art therapy is taught every day, music therapy twice a week, and the academy partners with the Louisville Orchestra.

Deafness is the most costly individual disability in terms of special education costs, averaging $25,000 per child per year, compared to $5,100 for a normal hearing child. Approximately two to three out of every 1,000 children in the United States are born with a detectable level of hearing loss in one or both ears making it the most common birth defect. Deaf and hard-of-hearing infants enrolled in appropriate early intervention services by six months of age are likely to have normal language and cognitive development. Kentucky's Early Hearing Detection and Intervention program identifies the children with hearing loss at birth and remain in the academy's program through kindergarten. The children that graduate are primarily oral and few require sign language due to intense intervention services.

Approximately 36 million American adults report some degree of hearing loss. Approximately 26 million Americans between 20 and 69 experience hearing loss due to exposure to loud sounds, noise at work, or leisure activities. Heuser now has three non-profit hearing service centers working with patients to improve overall quality of life regarding hearing and balance. Heuser provides health services for up to 7,000 patients annually. According to the results of a study conducted by researchers from Johns Hopkins and the National Institute, although the brain becomes smaller with age, the shrinkage seems to be fast-tracked in older adults with hearing loss. The consequences associated with hearing loss include increased risk of dementia, falls, hospitalizations, and diminished physical and mental health overall. Medicare spending for people age 65 or older with Alzheimer's and other dementias is three times higher than for seniors without dementia. Medicaid payments are 19 times higher. Heuser would like to team up with Kentucky to pilot a Service for Hearing Program that would provide hearing amplification for seniors that would treat hearing loss.

In response to a question by Senator J. Carroll, Mr. Bachmann stated that during an ear examination, a physician would notice if a build-up of wax is causing any hearing problems.

**Genetic Counseling**

Kathryn Warren, MS, CGC, and Pamela Brock, MS, CGC, Clinical Genetics Unit, Weisskopf Center, University of Louisville School of Medicine, stated that genetic counselors are healthcare providers with significant training and expertise in molecular biology, medical genetics, and psychosocial counseling obtained through a two-year Master's level program. National accreditation of genetic counselors is administered by the American Board of Genetic Counseling. According to the National Society of Genetic Counselors 2014 Professional Status Survey, there has been a 75 percent increase of certified genetic counselors since 2014. There are 20 genetic counselors in Kentucky working at universities, hospitals, laboratories, and non-profit and government entities. The goals of the licensure of genetic counselors are to protect the public and regulate the profession and improve access to genetic counselors.

The proposed legislation would allow for genetic counselors in Kentucky to be licensed. The goals of the bill are to ensure that healthcare providers presenting themselves as genetic counselors have the training and certification to do so, to allow for genetic counselors to become credentialed and bill independently for services using the existing genetic counseling CPT code, and expand access to quality counseling services for residents of Kentucky. Currently in Kentucky there is no law addressing licensure for genetic counselors. There be minimal cost to the state medical board to license genetic counselors since related costs will be covered by license fees. No additional testing will be required for licensure and the genetic counselor would provide proof of national certification in the application process. Medicaid would save money, because genetic counselor charges are likely to be less than the physician charges for the same service.

In response to questions by Representative Owens, Ms. Brock stated that genetic counselors are required to have a two-year Master's degree in genetic counseling. Genetic counselors are part of the School of Medicine at a university. Approximately 95 percent of patients are doctor referrals. Ms. Warren stated that it depends on the type of insurance of a patient.

In response to questions by Representative Marzian, Ms. Brock stated that the new board would be under the Kentucky Board of Medical Licensure. Administrative costs would be covered by administrative fees.

In response to questions by Senator Higdon, Ms. Brock stated that the University of Louisville uses the CPT code for genetic counselors seeing patients with doctors. It would be cheaper to bill for genetic counseling services rather than being billed by a physician. Genetic counselors cannot bill Medicaid for services. Dana Mayton, University of Louisville, stated that genetic counselors would be able to bill Medicaid if accredited by a national accreditation board.

In response to a question by Representative Benvenuti, Ms. Brock stated that most genetic counseling visits are time based. The CPT code for a visit to a genetic counselor is usually $100.

**Home and Community Based Waiver Changes – Adult Day Health**

Leslie Hoffmann, Behavioral Health Policy Advisor and Director Division of Community Alternatives, Cabinet for Health and Family Services, stated that since its inception in 1965, Medicaid has provided comprehensive long-term care in institutional settings only. The Centers for Medicare and Medicaid Services requires a state to ensure the same level of care in the community as provided in an institutional setting. The reimbursement rate for Kentucky is 70 percent from the federal government and 30 percent from the state. There is a 50/50 reimbursement rate for administrative costs.

The 1915(c) Home and Community Based Services (HCBS) waivers are one of many options available to states to allow the provision of long-term care services in home and community based settings under the Medicaid program. Kentucky HCBS waivers include Acquired Brain Injury (ABI), Acquired Brain Injury-Long Term Care (ABI-LTC), Home and Community Based (HCB), Michelle P. (MPW), Model II (MIIW), and Supports for Community Living (SCL). HCBS waivers serve various targeted populations, including the elderly and those with intellectual disabilities. There is an important distinction between HCBS waivers and the HCB waiver. The HCB waiver is one of the HCBS waivers. The HCB waiver provides services and supports to elderly people or children and adults with disabilities to help them remain in or return to their homes.

The CMS implemented new regulations for Medicaid's 1915(c) HCBS waivers on March 17, 2014. Key elements of the rule include person-centered service plan, conflict-free case management, person-centered planning, and provider settings. Case managers have access and the ability to utilize the Medicaid Waiver Management Administrative (MWMA) Portal. Providers and individuals will be able to use the portal in December 2015. The HCB waiver renewal changes have been submitted but not approved by the CMS. The changes included in the renewal will become effective as soon as the CMS approves the waiver application.

While some parts of the rule require immediate implementation, the CMS allows states to implement the setting requirements over five years. The Michelle P transition plan was submitted August 28, 2014. On December 19, 2014 the statewide transition plan was submitted, and Kentucky must be compliant with all setting rules by March 17, 2019.

Debbie Anderson, Commissioner, Department for Aging and Independent Living (DAIL), Cabinet for Health and Family Services, stated that the Department for Medicaid Services (DMS) and DAIL made significant changes to improve the HCB waiver program through a renewal to CMS. The Department for Medicaid Services (DMS) contracted with DAIL to be the new operating agency for the HCB waiver. DAIL will oversee the daily operations, provide technical assistance, and monitor providers on behalf of DMS. Participant assessments to determine level of care, currently conducted by providers, will now be independent from other services provided and conducted by DAIL. Additional providers, including the Centers for Independent Living and Area Agencies on Aging and Independent Living have been included as eligible HCB waiver providers. Providers can serve beyond the bounds of their Certificate of Need (CON) area. In order to assure that participants could have the necessary accommodations, the limit for environmental modifications has now been increased to $2,500 per year to better serve the needs of the HCB waiver participants and keep them out of nursing facilities. New services have been added to the waiver, including Home Delivered Meals and Personal Emergency Response Systems (PERS) to meet unfilled needs in the HCB waiver. Services are now more flexible, including changes to Attendant Care that allow providers to assist participants with multiple needs, clarifying changes to the definition of respite care and redefining coordination services in Participant Directed Services. Some rates have increased while others have stayed the same or decreased in order to maintain budget neutrality. The 30 hours per week for adult day health care (ADHC) that allow adult working children more flexibility to care for loved ones has been increased to 50 hours per week. A Kentucky emergency administrative regulation will be filed and become effective as soon as CMS approves the waiver.

ADHC providers will be impacted by the implementation of the HCBS final rules, MWMA portal, and the HCB waiver program changes that include conflict-free case management, HCBS setting rules, provider expansion, rate changes, ADHC hours, and physical, occupational, and speech therapies (PT/OT/ST). Physical, occupational, and speech therapies will now be provided through the State Health Plan.

In response to questions by Senator Adams, Lynne Flynn, Policy Advisor, Commissioner's Office, Department for Medicaid Services, Cabinet for Health and Family Services, stated that in March 2014, the CMS adopted new rules for HCB waiver services. Kentucky has until March 17, 2019 to come into compliance with the new federal HCBS waivers services. On December 19, 2014, Kentucky submitted a transition plan that outlined how the state would come into compliance. The plan is still pending approval by the CMS. The four basic areas are person-centered service plan that states that the needs identified through assessment, as well as the individual's strengths, preferences, identified goals, and desired outcomes; conflict-free case management states that providers of HCBS for the individual must not provide case management or develop the person-centered service plan, unless the provider is the only willing and qualified provider within 30 miles of the patient; person-centered planning states that the individual leads the process to the maximum extent possible and is provided information and support to make informed choices regarding his or her services as well as providers; and provider settings states the setting is integrated in and supports full access of individuals receiving HCBS to the greater community, giving the individual initiative and independence in making life choices. The HCBS federal rules define settings that cannot be HCB and settings that are presumed not to be HCB. This rule will become rules will become effective in 2019 through a Kentucky administrative regulation.

Kentucky cannot file a waiver of the federal HCB federal rules. Home and community-based settings do not include a nursing facility, an institution for mental diseases, an intermediate care facility for individuals with intellectual disabilities, or a hospital. Settings assumed not to be HCB include any other locations that have qualities of an institutional setting, any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, any setting in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. If a setting is presumed not to be HCB, the state may present evidence to the CMS that states it is an appropriate waiver setting, then the CMS will make its decision.

The HCB setting requirements for all waiver HCB settings and residential specific settings are that an individual is integrated in and has full access to the greater community; an individual selected both the setting (location) and provider; an individual has rights of privacy, dignity, and respect, and freedom from coercion and restraint; an individual has autonomy and independence in making life choices, where possible; and an individual is provided choice regarding services and supports and who can provide the services and supports.

Provider-owned residential setting requirements are that an individual has a legally enforceable agreement documenting the eviction and appeals process; an individual has privacy in their living unit; an individual has freedom to control his or her own schedule and activities including access to food; an individual is able to have visitors of their choosing at any time; the setting is physically accessible to the individual; and any modification of the rules, except physical accessibility must be supported by a specific assessed need and justified in the POC plan.

Adult day health waiver services will continue to be available to waiver members through the Medicaid State Plan.

In response to questions by Representative Moore, Commissioner Anderson stated that the cost per year per person for the HCB waiver is approximately $16,000. The HCB waiver services are more for personal care assistance rather than skilled nursing. Ms. Flynn stated that HCB services are less expensive than nursing facility care. If a family member has been taking care of another family as a natural support and not receiving HCB waiver services, they cannot receive those same services under the new HCB waiver.

In response to a question by Representative

Marzian, Commissioner Anderson stated that waiver services cannot be provided for identical services provided in the State Health Plan (SHP). The occupational, physical, and speech therapies are currently included in the SHP. The cabinet is working with the CMS on the transition plan. HCB waiver recipients will not lose occupational or physical therapies during the transition period.

In response to questions by Senator Harper Angel, Ms. Flynn stated that there is a waiver option to allow extended SHP services for the same service to include more visits than the hard limits as allowed in the SHP. Kentucky does not have hard limits for therapies within its SHP. The CMS has said that the extended SHP services is not an option for Kentucky. Director Hoffman stated that the cabinet has asked the CMS to provide official documentation of this ruling. The CMS is treating this as a formal Request for Information, and it may take up to 90 days to complete the request. The current SCL regulations being done for the renewal will not become effective until January 2016. The HCB waiver regulation will be sent to the CMS in October 2015. The HCB waiver will go into effective as soon as it is approved by the CMS. The cabinet will operate under the old waiver regulations until the HCB waiver changes are approved by the CMS.

Representative Wuchner requested that the cabinet provide a flowchart of the HBC waiver services broken down by the old waiver rules, new rules, compliance plan, outcome, and timeframe.

Representative Benvenuti stated that Kentucky has a Medicaid program that is extremely rich in benefits extended to over a fourth of the population. Kentucky is now very subservient to the rules of the federal government because the state accepts so much federal money.

Mary Hass, Advocate of the Brain Injury Association of Kentucky (BIAK), stated that advocates were in the initial discussions about the HCB waiver services, but at no time was there a discussion to remove therapies. Advocates want more transparency from the cabinet.

Eric DeYoung, President, Kentucky Occupational Therapy Association, stated that the decision to finally expand access to occupational and physical therapies to individuals in the traditional Medicaid program would help to reduce money by reducing hospitalizations, preventing surgeries, and create a more functional and productive population. However, treating the traditional Medicaid population with an orthopedic injury is not as complex as treating someone with an intellectual or developmentally disabled condition. Services for individuals with an intellectual or developmentally disabled condition is currently covered in the HCB waiver. The complexity to change from a waiver program to a state-funded program is services currently provided by OT/PT/ST by the employer who does the primary billing of services to the waiver program. By transitioning from the waiver program to the state program, individual practitioners will have to be credentialed and go through the application process to obtain a Medicaid provider number to bill the Medicaid program. Sometimes it can take up to a year to get the Medicaid provider number. Once the provider number is obtained, a practitioner would have to apply for the MCO numbers. The transition period will affect 20,000 recipients because there are not enough practitioners becoming Medicaid-enrolled practitioners. The reimbursement for the waiver program is different and is more than under the state program that reimburses at a net rate lesser than the waiver program.

In response to questions by Representative Burch, Mr. DeYoung stated that the concern is more about access and having enough qualified practitioners to provide the services and bill for the services, not reimbursement. Providers have to be credentialed by Medicaid and go through the CON process in order to provide HBC waiver services.

Representative Benvenuti stated that the most vulnerable are going to struggle, because services are going to be cut and access limited.

Representative Burch stated that Kentucky does not have enough practitioners to provide services.

In response to a question by Representative Marzian, Ms. Hass stated that the 20,000 recipients were already in the HCB waiver and not included in the total of recipients included in the Medicaid expansion. The rule was changed to get therapies under the State Health Plan. It should not take long to become a Medicaid provider.

Beth Yurek, Executive Director, Office of Policy and Budget, stated that there is a need to recognize the differential between regular Medicaid and waivers. When the CMS changes the rules, Kentucky has to adjust.

**KARES**

Maryellen Mynear, Inspector General, Jennifer Mayes, Policy Analyst, Stephanie Brammer-Barnes, Regulation Coordinator, and Al Ervin, Project Manager, Cabinet for Health and Family Services, stated that the goal of the Kentucky National Background Check Program (NBCP) is to better protect Kentucky's most vulnerable elderly populations through national fingerprint-based criminal background checks and abuse registry checks for new employees of long-term care facilities and similar healthcare providers. Name-based state-only background checks do not sufficiently protect the elderly from exposure to individuals with serious felony convictions. Current criminal background checks only provide history for crimes committed in Kentucky. Applicants are expected to voluntarily disclose prior out-of-state addresses so that a background check can be performed for that state. If an applicant has a criminal background in another state, he or she could deliberately omit that address. The Kentucky State Police is the liaison with federal agencies.

The Cabinet for Health and Family Services' Office of Inspector General received a $3 million federal grant from the Centers for Medicare and Medicaid Services (CMS) on May 19, 2011 to design and implement the NBCP formally known as KARES. KARES began operation in May 2014 on a voluntary basis and now has 63 provider participants. Upon data entry of applicant's information, the program performs automated database search of all listed registries and returns results before fingerprinting. The first fee for the first 36,000 fingerprint checks is $20. After the grant subsidy is fully used, the fingerprinting fee will not exceed actual costs. Fingerprint scanners are located through the state at Office for Employment Training (OET) Centers. A grant application for acquisition of additional scanner locations is pending with CMS.

Currently an employer must use a paper-based system to submit a potential employee's name and other information to the state. The results generally take two to three weeks or longer. The NBCP would get the results within 48 to 72 hours. Currently, employers must perform a background check on each new hire, even when that person has already submitted to a background check while working for another employer within the same type of business. With enacted legislation, NBCP will provide a continuous assessment feature which notifies an employer if a fingerprinted employee is later convicted of a disqualifying crime. If a new employee was previously fingerprinted and his or her criminal history was reviewed by NBCP, there is no need to re-fingerprint the person.

**Adjournment**

There being no further business, the meeting was adjourned at 4:06 p.m.

## INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

### Minutes of the 1st Meeting of the 2015 Interim

August 25, 2015

**Call to Order and Roll Call**

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, August 25, 2015, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jeff Greer, Co-Chair; Senators Julie Raque Adams, Jared Carpenter, Chris Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, Albert Robinson, John Schickel, and Dan "Malano" Seum; Representatives Will Coursey, Ron Crimm, Mike Denham, Joseph M. Fischer, Jim Gooch Jr., Mike Harmon, Chris Harris, Dennis Horlander, James Kay, Dennis Keene, Thomas Kerr, Adam Koenig, David Meade, Michael Meredith, Russ A. Meyer, Brad Montell, David Osborne, Sannie Overly, Ruth Ann Palumbo, Ryan Quarles, Steve Riggs, Bart Rowland, Jonathan Shell, Kevin Sinnette, Fitz Steele, Wilson Stone, and Ken Upchurch.

Guests: Russell Lay, Department of Insurance; Sarah Nicholson, Kentucky Hospital Association; and Mark Mangeot, Department of Corrections, among others.

LRC Staff: Sean Donaldson, Erica Warren, Jonathan Scott, and Marlene Rutherford.

**Approval of Minutes**

Representative Keene moved that the minutes of the October 28, 2014, meeting be approved. Representative Denham seconded, and the minutes were approved without objection.

**Proposed Merger of Aetna and Humana**

**Insurance Companies**

Co-Chair Greer indicated that there were certain matters that representatives of the two companies could not address because of impending federal and state approvals, such as any speculation on the approval process, comments on insurance transactions not related to their own, material matters relating to the merger that have not been disclosed publicly, and any part of the Department of Justice and state discussions or negotiations relating to the competitive nature of the business since Humana and Aetna remain competitors until the merger is closed; and any product offerings, rates, or provider contracts.

The committee heard statements and comments from Sharon Clark, Commissioner of Insurance, Fran Soistman, Executive Vice President of Government Services for Aetna, Inc., Russell Harper, Kentucky State Director Government Affairs, Aetna Insurance, and Joe Ventura, General Counsel and Corporate Secretary for Humana, Inc. on the proposed acquisition of Humana, Inc., a for-profit health insurance company whose headquarters are located in Louisville, Kentucky by Aetna, Inc., a managed health care company which sells traditional and consumer driven health care insurance plans, headquartered in Hartford, Connecticut.

Commissioner Clark indicated that the Department of Insurance would be performing an analysis of the acquisition in accordance with state statutes and regulations. In order to perform the analysis the department is permitted to hire, at the applicant's expense, attorneys, actuaries, accountants, and other experts that may be necessary to assist the department in examining the merger but she feels that because of the expertise within the department that only two economists will be necessary.

In response to a question by Senator Robinson, Commissioner Clark indicated that the department would only be reviewing the form of the merger. The department will not be considering economic impact of the merger, such as job loss or loss to the tax base, outside of the limited analysis to prevent monopolies.

Mr. Soistman indicated that the merger between Aetna and Humana is different in that the merger would complement each other. Aetna's strength is in the private commercial market and Humana's market strength is focused on the government and Medicare Advantage market. He said that this is the largest transaction in the history of Aetna and that Humana would be a wholly-owned subsidiary of Aetna, Inc. Aetna is committed to the community and the Humana Headquarters will remain in Louisville, and be the headquarters for the new company's government business. Mark Bertolini, the current CEO of Aetna, will remain the CEO of the new company. There will be no change in the Humana Board of Directors and both the Aetna Board and the Humana board will have to approve the merger transaction. He indicated that this merger would only cause a minimum of disruption to those clients served.

Mr. Ventura indicated that documents have been submitted to the Department of Justice for review.

In response to Representative Fischer concerning the private and government marketplace and the market share of each, Mr. Ventura indicated that he would be providing that information to Commissioner Clark and the Department of Insurance for evaluation. Mr. Soistman said that Medicare is seven percent of the market share.

Co-Chair Greer stated that the committee needs to understand that Aetna is committed to Kentucky and that it was understood that the government business headquarters would remain in Louisville. Mr. Soistman reiterated that Aetna is committed and that both entities are well grounded businesses. Aetna has been in business over 160 years.

Responding to a question by Representative Montell as to the costs and premium reimbursement to doctors and what would happen to the premiums for consumers in the acquisition, Mr. Soistman indicated that there would be a $1.25 billion in savings annually through the elimination of redundancies and the company was steering more toward a value-based provider reimbursement and transitioning away from a fee-for-service reimbursement. A value based reimbursement allows for more providers and competition.

In response to Representative Quarles and Senator Seum as to what the Humana name means in Kentucky and whether the name would remain after the merger, Mr. Soistman said that the name Humana was a powerful name in the Medicare Industry and would continue to be used by the new company and the Humana name preserved.

Mr. Soistman indicated that the second half of 2016 is the target to completion of the merger.

Responding to Representative Harris as to whether there would be an evaluation of each line of business to determine if there is a monopoly, Commissioner Clark stated that the department would be looking at each line of business in the review and then would review business region by region. She said that Aetna serves large markets and that Northern Kentucky would be reviewed closely because there are large insurance companies in that area.

In response to Representative Riggs concerning Aetna's corporate responsibility, Mr. Soistman stated that the CEO of Aetna has made a social compact by voluntarily setting the minimum wage at $16.00 per hour for its employees which is both good for employees and the company because it lessens the turnover in the company.

Co-Chair Greer announced that the next meeting would be an out-of-town meeting, sponsored by Community Ventures of Lexington, at Marriott Griffin Gate Hotel in Lexington, with breakfast at 9:00 a.m. and the meeting at 10:00 a.m. A tour of various projects in the city and lunch will follow.

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

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

August 27, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 27, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Rick Rand, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Chris Girdler, David P. Givens, Stan Humphries, Morgan McGarvey, Dennis Parrett, Wil Schroder, and Brandon Smith; Representatives John Carney, Larry Clark, Ron Crimm, Mike Denham, Jeffery Donohue, Myron Dossett, Kelly Flood, Martha Jane King, Reginald Meeks, Terry Mills, Marie Rader, Sal Santoro, Arnold Simpson, Rita Smart, Fitz Steele, Jim Stewart III, Wilson Stone, Tommy Turner, David Watkins, Susan Westrom, Addia Wuchner, and Jill York.

Guests: Kristi Culpepper, Executive Director, Lisa Collins, Senior Financial Analyst, School Facilities Construction Commission; Hiren Desai, Associate Commissioner, Office of Administration and Support, Chay Ritter, Branch Manager, District Funding and Reporting Branch, Kentucky Department of Education; Arch Gleason, President and CEO, Howard Cline, Chief Financial Officer, and Mary Harville, General Counsel, Kentucky Lottery Corporation.

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

**Approval of Minutes**

Representative King made a motion, seconded by Senator Girdler, to approve the minutes of the July 23, 2015 meeting. The motion carried.

**Overview of the School Facilities Construction Commission**

Kristi Culpepper, Executive Director and Lisa Collins, Senior Financial Analyst gave a brief overview of the structure and operations of the School Facilities Construction Commission (SFCC).

Ms. Culpepper explained that the renovation and construction of facilities are funded through a school district's unrestricted funds and restricted funds. Unrestricted funds would be money in the district's general fund derived from the SEEK funding program. Restricted funds are those funds that are reserved for capital construction and renovation projects.

Ms. Culpepper stated that since the enactment of the Kentucky Education Reform Act (KERA) in 1990 the state has funded facilities through a three-pronged approach based on the size, wealth, and need of each district.

In discussing the funding further, Ms. Culpepper explained that the size component of the facility funding is the Capital Outlay Funds included in the SEEK formula. The formula is $100 x district's average daily attendance.

Amounts from the Facilities Support Program of Kentucky (FSPK) make up the wealth component of the facilities funding. FSPK provides funding based on property assessments, and includes both local and state components. To participate in FSPK, school districts must levy a five-cent equivalent tax to pay for capital construction projects. These levies are often referred to as "nickel levies."

Ms. Culpepper noted that districts can impose additional nickels subject to voter recall, and that the General Assembly (GA) has authorized districts meeting certain criteria to levy specific additional nickels to support construction projects in past budget cycles.

The state component of the FSPK program equalizes the local tax levy. Equalization funding is provided as a general fund appropriation in the state budget.

Ms. Culpepper stated that the need component is addressed through SFCC offers of assistance to districts for capital construction and renovation projects based on unmet facility need and to purchase new technology under the Kentucky Education Technology System (KETS) Program. The SFCC requests funding for construction offers of assistance in each fiscal biennium. Funding for the KETS program is included in the Kentucky Department of Education's budget request, although the program is administered through the SFCC.

Ms. Culpepper explained that for a district to be eligible for SFCC assistance, they must meet certain eligibility requirements. Ms. Culpepper explained how funding is provided by the state and local districts. SFCC offers of assistance must be applied to a district's first priority projects, or second priority projects if the district has already addressed all of its first priority projects.

The SFCC provides funding to school districts on an equitable basis using a formula that takes into account the appropriation made by the GA to the SFCC, multiplied by the district's unmet facility need expressed as a fraction of the state's total unmet facility need. Under the formula, the SFCC provides each district that has an unmet need its proportionate share of the amount the GA appropriates to the SFCC during each fiscal biennium.

In 2013, the state's total unmet school facility need was $5.36 billion. This takes into account $5.98 billion of total facility needs and $627.6 million of total local available revenues.

Ms. Culpepper stated that for outstanding bonds with SFCC debt service participation, the current debt is $956 million total principal for the SFCC portion and $3.7 billion total principal for the local portion.

Ms. Culpepper explained that there are two policy hurdles that the SFCC has had to face when making offers of assistance during the current biennium. The first is a budget provision that gives districts flexibility in using capital outlay and FSPK funds. Districts are allowed to use capital outlay funds for operating expenses without forfeiting their eligibility to participate in the SFCC program. The language was originally intended to provide districts with additional financial flexibility during and immediately following the recession. This diversion of funds has resulted in more districts having unmet need for the purposes of calculating SFCC offers of assistance. Because the total appropriation for offers of assistance has remained static, the offers of assistance are smaller.

The second policy challenge noted by Ms. Culpepper is that the facility inventory and classification system (FICS) has not been maintained, and school districts often do not keep their facility plans up-to-date, resulting in incorrect or insufficient information being used to make policy decisions.

Moving onto technology, Ms. Culpepper said that the GA allocates funds for the KETS each biennium through the Department of Education's budget, but that the program is administered through the SFCC. Funds are distributed to districts based on their average daily attendance. Since 2001, the state has spent $339,612,553 on education technology; these funds are then matched by districts on a dollar for dollar basis, so this investment equates to $679,225,106.

In response to a question from Chairman Rand, Ms. Culpepper explained that the emergency and targeted investment fund was established in 2014 RS HB 445. Because this fund was only recently capitalized through the fund lapse at the end of the fiscal year, there has not been any money expended out of the fund. The SFCC, at its June meeting, made an allocation from the fund to Carlisle County for the demolition of its elementary school that was addressed in the budget bill. The authorization of $7.3 million in the budget bill was insufficient to demolish and rebuild the school, so additional funds were needed for the demolition. An offer of assistance for this project is the first to be made out of this emergency fund. The fund balance is approximately $2.3 million.

In response to a question by Chairman Rand, Ms. Culpepper explained that most of the districts whose schools were listed as the top ten schools in need of assistance in certain language included in the 2014 budget bill were not anticipating funding for those projects. The list of schools was outdated and incorrect, and that some schools on the list had been closed or had already been renovated.

In response to a question from Senator Givens, Ms. Culpepper stated the districts provide updates to the Department of Education regarding unmet need for their schools and that is what the SFCC uses to make offers of assistance.

In response to a question from Representative Carney, Ms. Culpepper stated that in 2014 the SFCC lapsed $9.8 million, and in 2013 lapsed $3.5 million, back to the General Fund.

**SEEK funding formula**

Hiren Desai, Associate Commissioner, Office of Administration and Support, Kentucky Department of Education presented an overview of the Support Education Excellence in Kentucky (SEEK) funding program.

Mr. Desai explained that the formula for the SEEK program was enacted in 1990, and base funding is on a per-pupil basis. There are add-ons that increase the amount of funding each school receives, as well as transportation reimbursement and local effort impact.

Mr. Desai stated that the school funding formula was established to equalize the funding for schools, and that resources include both state and local funds. The required local contribution is based on the school district's property assessment tax base, although revenues can be generated locally through a variety of taxes. The state provides funds necessary to make up shortfalls in local revenues. The per-pupil base amount is established by the General Assembly in the biennial budget. For FY 15-16 the per-pupil base is $3,981.

Mr. Desai explained that in addition to that base allocation, there are add-ons that will increase the total funding a school district receives per pupil. The add-on categories are: at risk, which is based on the number of students that qualify for the free or reduced lunch program; exceptional child; home or hospital; and limited English proficiency.

Mr. Desai noted that the department reimburses districts for transportation costs based on a complicated formula that includes several components. He described the components. Currently, districts receive reimbursement for only 49 percent of actual transportation expenses.

Mr. Desai explained that, to qualify for SEEK funding, a district must generate an amount equivalent to at least 30 centers per $100 in property assessments. All districts are making the required levies. A district can levy an additional 5 cents per $100 of assessed property to qualify for FSPK. To qualify for Tier 1 funding, a district can levy taxes that generate an amount equal to 15 percent of SEEK base plus add-ons.

He stated that the assessment base includes real estate, tangible property and motor vehicles, and that districts can generate funds from property taxes, utility gross receipts license taxes, occupational taxes, or excise taxes.

Mr. Desai explained that districts can impose additional levies and are eligible for Tier 1 funding receive equalization funds from the state at 150 percent of the state average per-pupil assessment.

In response to a question from Representative Flood, Mr. Desai stated that allowing districts to have funding flexibility with capital outlay funds during the recession was very positive. He said that he agrees with Ms. Culpepper, that the language allowing flexibility in the use of these funds should be revisited.

In response to a question from Representative Stone, Mr. Desai explained that a district can impose more than one nickel for capital construction and the state will continue to equalize in some cases, depending on the authority under which the levy was made.

In response to a question from Representative Smart, Chay Ritter, Branch Manager, District Funding and Reporting Branch, Kentucky Department of Education, stated that there are several school districts that receive funding in lieu of tax payments from entities that own property which is not included in the district assessment base, and that these payments are not considered as revenues for purposes of SEEK.

In response to a question from Chairman Rand, Mr. Ritter stated that quite a few districts have levied additional nickels. He explained that any district that wants an additional nickel at this point would be subject to voter recall.

In response to a question from Chairman Rand, Mr. Desai explained that districts can get reimbursed for having national board certified teachers on staff. There is a reimbursement for vocational schools as well.

**Lottery Corporation's sponsorship agreement with the Kentucky Executive Mansion Foundation and transfers to the General Fund**

Arch Gleason, President and CEO, Howard Cline, Chief Financial Officer, and Mary Harville, General Counsel, Kentucky Lottery Corporation (KLC) discussed the Lottery's sponsorship of the Kentucky Executive Mansion Foundation and Lottery transfers to the General Fund.

Mr. Cline explained the dividend transfers from the Lottery to the Commonwealth. He noted that in FY 15, $221.8 million was deposited in the lottery trust fund, and $9.4 million was transferred to the KEES reserve fund. KLC had record transfers to these funds over the last five years. The growth rate for KLC over the same five years was 3.1 percent, which closely mirrors the state's growth rate for sales and use tax of 3.2 percent.

Mr. Cline briefly reviewed revenues from various games offered by the KLC. At the last Interim Joint Committee on Appropriations and Revenue meeting, the State Budget Director noted the issue of jackpot fatigue which has resulted in reduced revenues from some lottery jackpot games. He stated that because of jackpot fatigue the KLC experienced twenty-three weeks of Powerball sales below one million dollars in FY 15 compared to two weeks in FY 14. Changes are being made to hopefully grow jackpots and increase sales in future years.

Mr. Cline explained that the budget bill (2014 RS HB 235), required the KLC to transfer $11 million to the General Fund in FY 15. The language required that the funds be transferred from the net unrestricted reserves held by the KLC as identified in the Kentucky Lottery Annual Financial Report, dated June 30, 2013. Unrestricted reserves are retained or prior year undistributed earnings. They are used to pay obligations and include cash and other non-transferrable, non-liquid assets.

Mr. Cline stated that cash on hand fluctuates daily as obligations are paid and payments are received. KLC's minimum month-end unrestricted cash balance was set by the board at $9.5 million to meet ongoing obligations. After subtracting the $9.5 million minimum balance, the $11 million obligation to the General Fund was never available. He explained that the unrestricted cash in the unrestricted net position is used to pay prizes and other critical operating expenses on a daily basis, and is necessary to continue successful operations.

Mr. Cline explained that after reviewing one year's activity of uses and sources of cash, $2.5 million became available for transfer to the General Fund when the board approved a policy change to lower the balance of unrestricted cash from $9.5 million to $7 million. A $5 million transfer was approved by the board and occurred on June 30, 2015.

Mr. Gleason stated that KLC entered into a sponsorship agreement with the Kentucky Executive Mansion Foundation for a total sum of $15,000 for a period beginning June 1, 2015 and ending June 30, 2015. Under the agreement, KLC provided signage for display in the Capitol Education Center to promote the scholarship and grant programs. It was their understanding that the education center receives 60,000 visitors annually.

In response to a question from Chairman McDaniel, Mr. Gleason stated that the management and board of the KLC have a fiduciary responsibility to insure that there is sufficient cash on hand to pay ongoing obligations. He said that some of the cash reserves are for games that payout daily and that amount could be up to $1.5 million.

In response to a question from Chairman McDaniel, Mr. Gleason explained that in order to make up the $6 million the lottery was short in transfers to the General Fund, the KLC would need a surplus over their projected net income of $6 million. He stated that this is not likely.

**Other Business**

The chair informed members that various documents were available in their folder for review, including a list of executive branch agency reports submitted to the committee and correspondence from Jennifer Anglin, Acting Deputy Director, Office of Budget Review, relating to interim appropriations increases, adjustments and revisions.

There being no further business, the meeting was adjourned at 2:35 p.m.

## INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

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

August 20, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, August 20, 2015, at 11:00 AM, at the University of Kentucky Logan County Extension Office in Russellville, KY. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll. This was a joint meeting with the Interim Joint Committee on Economic Development and Tourism.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Carroll Gibson, Chris Girdler, Ernie Harris, Reginald Thomas, and Mike Wilson; Representatives Jeffery Donohue, Jim DuPlessis, Joni L. Jenkins, Adam Koenig, Mary Lou Marzian, Jerry T. Miller, Terry Mills, Tom Riner, Jim Stewart III, and James Tipton.

Guests: Logan Chick, Logan County Judge Executive; Mark Stratton, Russellville Mayor; Tom Harned, Executive Director, Logan Economic Alliance for Development (LEAD); Ken Campbell, Engineering Manager, Ventra Plastics; Stacey Hughes, Human Resources Manager, Logan Aluminum; Doris Moody, Human Resources Team Leader, Logan Aluminum; Lee Hodgins, Vice President of Human Resources, Champion Petfoods; and Dr. Kevin Hub, Superintendent, Logan County Schools.

LRC Staff: Carla Montgomery, Adanna Hydes, Matt Ross, and Sasche Allen.

**Welcome**

Logan Chick, Logan County Judge Executive, welcomed both committees to Logan County by giving a brief description of the area's rich heritage and history. He expressed his appreciation for the committees coming to Logan County and how proud he is to have so many corporate partnerships within the county.

Mark Stratton, Russellville Mayor, welcomed the committees by saying it was a privilege and an honor to have the committees, and he appreciates the work they do across the commonwealth. Mayor Stratton expressed gratitude for the great leadership in the legislature that he has seen over the years.

**Career Prep Initiative**

Tom Harned, Executive Director, Logan Economic Alliance for Development (LEAD), gave a presentation similar to one that he would give to an industrial prospect interested in relocating or expanding in Logan County from an economic development standpoint that highlighted things such as the county's community, industrial park site, utilities, workforce, timeline, financing, and local incentives.

Logan County is in south-central Kentucky and is within a day's drive of 60 percent of the U.S. population, with agriculture accounting for 30 percent of their economic activity and 70 percent attributed to industry and business. The West Industrial Park is 200 acres and has been zoned for heavy industry and has a 161 kilovolt transmission from the Tennessee Valley Authority (TVA), who has assisted in providing prospects with conceptual site plans. LEAD also offers studies on the area's soil and Karst topography to industrial prospects.

Mr. Harned discussed the different utility companies in Logan County such as TVA electrical power distributed by Pennyrile Electric Cooperative, Logan-Todd Regional Water Commission distributed by the City of Russellville, Logan Telephone, Russellville Electric Plant Board, and Atmos Natural Gas via Texas Gas Transmission. There are no capacity issues with any of the utilities in the county.

Mr. Harned detailed Logan County's workforce, saying that the county has a large metal working cluster including Logan Aluminum (1200 employees), Emerson Electric (360 employees), Sensus die casting (188 employees), welding and fabrication shops, and several electrical and mechanical contractors. The county population is almost 27,000 and, within a 30 mile radius, 143,684 are a part of the workforce. The unemployment rate of 4.9 percent is below the statewide rate of 5.3 percent and the national rate of 5.5 percent as of June 2015. The workforce availability has been effected by some of the county's manufacturing closures including Red Cap apparel, Auburn Hosiery Mills, and Hemlock Semi-Conductor. In 2013, there were 305 high school graduates entering the workforce with 118 students that had received National Work Ready Certificates. When LEAD makes presentations to prospects, Logan Aluminum is used as an example to demonstrate Logan County's ability to host a world class advanced manufacturer.

**Logan County Industry Perspective: Ventra Plastics**

Ken Campbell, Engineering Manager, Ventra Plastics, testified about Ventra Plastics, which was built in Russellville in 1992 and doubled in size by 1994. This led to the company being bought by Flex-N-Gate in 2001. The facility is 105,000 square feet and sits on 25 acres. Currently, the plant employs 274 workers, which includes positions such as machine operators, injection molding processors, general maintenance technicians, automations technicians, and tooling repair technicians.

The company's biggest client is Ford, with every F-Series Ford truck having parts that were produced from Ventra Plastics Russellville. The plant sends 16 to 18 truckloads to the Ford Truck Plant in Louisville each day. Mr. Campbell stressed the importance of having skilled workers who excel in areas like geometry and trigonometry due to precision being extremely important. For example, if an angle is measured incorrectly by a tenth of a millimeter on a piece of steel, then a $500,000 part mold would be unusable. The presentation included pictures of various machines that are used to produce parts and also a video demonstrating how one of the production machines works.

Having skilled workers is key for Ventra Plastics, and although good jobs are available, capable workers are not due to a lack of training and experience. Only 62 percent of youth graduating were deemed College/Career Ready. In the 10 county BRADD area, 25 percent of residents 25 or older have less than a 12th grade education. For this reason, he stated that various partnerships, such as those with the local area technology school, would be useful in trying to train more potential employees. Mr. Campbell emphasized that there are no longer multiple layers of supervision. Workers have to be self-directed and work with minimal supervision.

Responding to Representative Marzian, Mr. Campbell said that a lot of workers are hired right after they graduate from high school, and that tours are given to high school students of their facilities.

Answering Representative Harmon, he said that with everything that robots are capable of doing such as painting, mold making, and cutting of windshields, that it was possible for sewing to be done with robotics.

Representative Donohue suggested more outreach and exposure to high school students that could help the company with recruitment of adequately trained employees.

Representative DuPlessis commented about the difficulty for employers to find technical workers not only in Logan County but statewide. He said he thinks that the focus should be on career readiness and not test readiness when it comes to students and preparing them for the workforce.

**Logan County Industry Perspective: Logan Aluminum**

Stacey Hughes, Human Resources Manager, and Doris Moody, Human Resources Team Leader, of Logan Aluminum spoke about the company's history, current state, issues they face, and anticipated needs. In early 1981 construction began, and the plant's start-up was in 1983. Logan Aluminum was established as a joint venture by Consent Decree when ACRO sold the remainder of its aluminum business to Alcan. The decision to locate in Logan County was based on the work ethic of the people in the area. Today the company is run by two owners, Novelis Corporation and Tri-Arrows Aluminum Corporation, but has its own board of directors.

The plant is located on a 1000 acre site with 39 acres under roof and has over 1000 team members including over 500 operators (OTs) and over 180 maintenance workers (GTs). The company was built for a 400 million pound capacity of aluminum, but over the last 30 years has increased its production to two billion pounds without expanding the original footprint, which has been accomplished through human ideas and continuous improvement. Logan is the largest single can sheet facility in North American and supplies 45 percent of the North American can market.

There are five tenants that are used in their yearly strategic transition excellence plan which include managing costs; production optimization; product quality and consistency; environment, health, safety and security; and employee culture. Logan has a very unique management style that sets them apart from other companies. The well-being of employees is concentrated on to ensure employees are healthy and engaged. A majority of the time the plant operates without supervision or management, and it operates t 24 hours a day and seven days a week. Since the start of Logan Aluminum, the philosophy of using people as a part of the competitive advantage has been used to out produce competitors by changing the way that employees view work itself. There are eight levels of OTs and four levels of GTs with a 5 percent pay increase at each level. The compensation for OTs is $38,600 to $56,000 annually and for GTs $58,000 to $65,500, with full benefits for both.

Logan also operates a corporate university that trains and educates existing employees. There are 600 to 800 internal classes each year, with 35,000 to 40,000 hours of training each year. The topics of study cover three main areas which are technical, safety, and behavioral/team skills. Within the corporate university there are both internal and external instructors. Logan also offers an apprenticeship program that was established 25 years ago. It is a three year program offered to an existing employee that provides training on mechanical, electrical, instrumentation, and automation. The plant partners with Southcentral Kentucky Community and Technical College (SKYCTC) to allow employees to receive a two year technical degree and be paid while in school. The apprenticeship program used to be the company's main source of maintenance workers, but in recent years due to retirement, the company has had to increase the number of GTs hired externally.

The turnover rate at Logan Aluminum is 2 to 4 percent, but a challenge it is now facing is workforce retirement. Until now the retirement rate has been relatively low, but due to the baby boomer generation beginning to retire, over the next 10 years Logan will lose an estimated 30 to 50 employees a year. Losing highly skilled workers will greatly affect the plant. Experienced and well-trained workers from the community and surrounding areas will be needed to fill those positions. Of those that apply to Logan for a GT position, 6 percent are hired to become an employee after going through the competitive and thorough testing and assessment process. Moving forward, Logan Aluminum will need a career ready workforce that are highly skilled and technically and behaviorally strong.

Replying to Representative Martha Jane King, Mrs. Hughes estimated that 13 to 15 percent of the aluminum is exported outside of the U.S. Logan supplies North America with 45 to 47 percent of its can sheet.

Mrs. Moody explained the apprenticeship program in detail at the request of Senator Thomas. The apprenticeship program is an internal development program. The number of employees entering the program is based on business needs. About 40 to 45 employees apply each year and three to ten are accepted into the program.

Mrs. Hughes stated that experience, a technical degree, maintenance tests, behavioral interviews, technical interviews, and other assessments are involved in the application process in response to Senator Thomas. About 10 percent of people who apply for operator positions are hired on with the company.

**Logan County Industry Perspective: Champion Petfoods**

Lee Hodgins, Vice President of Human Resources, Champion Petfoods, testified about the Canadian-based globally distributed Champion Petfoods that is currently building a pet food kitchen in Logan County. Dog Star is the name that has been given to the 300,000 square foot facility that is being built to house the first U.S. location of the company. According to Mr. Hodgins, the company is building one the most technologically advanced pet food manufacturing facilities in the world. The company has been distributing their products worldwide for over 25 years. The mission is divided into three components: biologically appropriate, fresh regional ingredients, and never outsourced (BAFRINO). When a fire struck one of the kitchen locations in Canada three years ago, instead of outsourcing and hiring another manufacturing company to produce their pet food, the company informed suppliers around the world that it would have a decreased amount of product until repairs could be completed because it wanted to stay true to its mission. Logan County was chosen for the local ingredients that would be readily available to provide customers with quality pet food.

Champion Petfoods has strong values that have allowed them to be a successful pet food manufacturer. Those values include teamwork, responsibility, authenticity, innovation, and leadership. Mr. Hodgins stated that the company spends a lot of time on the teamwork within the company. As a result, it has a competitive screening and application process. It is currently in the hiring process to find the best employees possible. Training and development programs are being created to ensure a well-trained and skilled workforce. Although Champion Petfoods has employees that have been with the company for many years, it is looking for new and innovative leadership within the group entering the workforce to help continue to grow and thrive. The new kitchens in Logan County will be completed in four to five months and they will be hiring around 150 employees. Within that time, it will be seeking individuals who are a meaningful fit, are highly skilled in every opportunity they are given, and are well aligned with the culture and values of Champion Petfoods.

Mr. Hodgins stated that the initial investment in the facility in Logan County was

$85 to $100 million after being asked by Representative Martha Jane King. The company has developed partnerships with local farmers and growers after doing two years of research to provide fresh local ingredients.

**Logan County Area Technology Center Construction Plans**

Dr. Kevin Hub, Superintendent, Logan County Schools, gave an overview of the Logan County Area Technology Center construction plans. Logan County has approximately 3500 students with 600 employees. There are five P-8 schools and one comprehensive high school. Logan County is considered a distinguished district, ranking 16th in the state. There are two National Blue Ribbon Schools and four Middle Schools to Watch. This year, 557 students are attaining dual credit college courses by taking courses through the Russellville Area Technology Center (RATC) or at the high school, which is a total tuition savings of more than $625,000.

RATC celebrates its 50th year in 2015-2016 and has served more than 50,000 students over the years. Of the 53 area technology centers in Kentucky, only five offer nine programs like RATC, and none has quite as high student enrollment, which is more than 600. The nine programs currently offered are office technology, automotive technology, health sciences, information technology, drafting, electricity, welding, accounting, and machine tool technology. In addition to offering dual credit college courses, the center is also graduating students that have earned industry ready certifications such as American Welding Society Certifications, Nursing Assistant Certificates, AutoCAD Certificates, and IC3 Digital Literacy Certifications.

Although RATC does a tremendous job educating its students, there is now a need for a new area technology school due to the age of the current facility and the need for updated training equipment to properly teach students and provide them with modernized instructional resources. The new center, through partnerships with local businesses, will also provide adult workforce training. The local nickel recallable tax has been approved with no petition signatures, which will fund half of the $20 million construction of the new facility. Dr. Hub stated he hopes the legislature will vote to fully equalize, which will fund the other half of the project. Therefore, the facility would be able to be constructed without using any funds from the Logan County Board of Education bonding capacity. The architect selected by the board is an industrial architect who has planned for the center to be built for expansion and under industrial principles, which will allow the center to better train and educate individuals with the most current updated technology. Site visits have been done to local businesses to receive input on their needs to ensure that the programs offered and equipment used will give the students the most benefit within the workforce upon graduating.

Groundbreaking of the new area technology center will be spring 2016 and the anticipated opening will be fall 2017. The size will be nearly double that of the RATC, with the new facility being around 68,000 square feet. That will not only house the current nine programs but has also been designed to have extra room for expansion and additional programs. Dr. Hub said he will continue to petition the Department of Education to approve new programs. He said if he cannot accomplish that, then he will work with the board to have new programs offered through the high school but located at the new area technology center. There is also going to be extra space for higher education partners. The new center will also be a model for energy savings which includes an off peak ice storage, a 68 kilowatt solar array that will provide 25 percent of the building's energy, and an energy efficient use of daylight.

**Closing**

Representative Martha Jane King thanked both committees and all speakers for attending. She acknowledged former state Senator Richie Sanders for assisting in organizing the meeting.

There being no further business, the meeting adjourned at 1:30 PM.

## INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

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

August 20, 2015

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, August 20, 2015, at 11:00 AM, at the UK Logan County Extension Office, Russellville. This was a joint meeting with the Interim Joint Committee on Labor and Industry. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Carroll Gibson, Chris Girdler, Ernie Harris, Reginald Thomas, and Mike Wilson; Representatives Lynn Bechler, Tim Couch, Jim DeCesare, Jeffery Donohue, Myron Dossett, Jim Gooch Jr., Mike Harmon, Chris Harris, Richard Heath, James Kay, Martha Jane King, Brian Linder, Terry Mills, Wilson Stone, Russell Webber, and Jill York.

Guests: Logan Chick, Logan County Judge Executive; Mark Stratton, Russellville Mayor; Tom Harned, Executive Director, Logan Economic Alliance for Development (LEAD); Ken Campbell, Engineering Manager, Ventra Plastics; Stacey Hughes, Human Resources Manager, Logan Aluminum; Doris Moody, Human Resources Team Leader, Logan Aluminum; Lee Hodgins, Vice President of Human Resources, Champion Petfoods; and Dr. Kevin Hub, Superintendent, Logan County Schools.

LRC Staff: John Buckner, Lou DiBiase, and Dawn Johnson.

**Welcome**

Logan Chick, Logan County Judge Executive, welcomed both committees to Logan County by giving a brief description of the area's rich heritage and history. He expressed his appreciation for the committees coming to Logan County and how proud he is to have so many corporate partnerships within the county.

Mark Stratton, Russellville Mayor, welcomed the committees by saying it was a privilege and an honor to have the committees, and he appreciates the work they do across the commonwealth. Mayor Stratton expressed gratitude for the great leadership in the legislature that he has seen over the years.

**Career Prep Initiative**

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$85 to $100 million after being asked by Representative Martha Jane King. The company has developed partnerships with local farmers and growers after doing two years of research to provide fresh local ingredients.

**Logan County Area Technology Center Construction Plans**

Dr. Kevin Hub, Superintendent, Logan County Schools, gave an overview of the Logan County Area Technology Center construction plans. Logan County has approximately 3500 students with 600 employees. There are five P-8 schools and one comprehensive high school. Logan County is considered a distinguished district, ranking 16th in the state. There are two National Blue Ribbon Schools and four Middle Schools to Watch. This year, 557 students are attaining dual credit college courses by taking courses through the Russellville Area Technology Center (RATC) or at the high school, which is a total tuition savings of more than $625,000.

RATC celebrates its 50th year in 2015-2016 and has served more than 50,000 students over the years. Of the 53 area technology centers in Kentucky, only five offer nine programs like RATC, and none has quite as high student enrollment, which is more than 600. The nine programs currently offered are office technology, automotive technology, health sciences, information technology, drafting, electricity, welding, accounting, and machine tool technology. In addition to offering dual credit college courses, the center is also graduating students that have earned industry ready certifications such as American Welding Society Certifications, Nursing Assistant Certificates, AutoCAD Certificates, and IC3 Digital Literacy Certifications.

Although RATC does a tremendous job educating its students, there is now a need for a new area technology school due to the age of the current facility and the need for updated training equipment to properly teach students and provide them with modernized instructional resources. The new center, through partnerships with local businesses, will also provide adult workforce training. The local nickel recallable tax has been approved with no petition signatures, which will fund half of the $20 million construction of the new facility. Dr. Hub stated he hopes the legislature will vote to fully equalize, which will fund the other half of the project. Therefore, the facility would be able to be constructed without using any funds from the Logan County Board of Education bonding capacity. The architect selected by the board is an industrial architect who has planned for the center to be built for expansion and under industrial principles, which will allow the center to better train and educate individuals with the most current updated technology. Site visits have been done to local businesses to receive input on their needs to ensure that the programs offered and equipment used will give the students the most benefit within the workforce upon graduating.

Groundbreaking of the new area technology center will be spring 2016 and the anticipated opening will be fall 2017. The size will be nearly double that of the RATC, with the new facility being around 68,000 square feet. That will not only house the current nine programs but has also been designed to have extra room for expansion and additional programs. Dr. Hub said he will continue to petition the Department of Education to approve new programs. He said if he cannot accomplish that, then he will work with the board to have new programs offered through the high school but located at the new area technology center. There is also going to be extra space for higher education partners. The new center will also be a model for energy savings which includes an off peak ice storage, a 68 kilowatt solar array that will provide 25 percent of the building's energy, and an energy efficient use of daylight.

**Closing**

Representative Martha Jane King thanked both committees and all speakers for attending. She acknowledged former state Senator Richie Sanders for assisting in organizing the meeting.

There being no further business, the meeting adjourned at 1:30 PM.

## SPECIAL SUBCOMMITTEE ON ENERGY

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

August 21, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Special Subcommittee on Energy was held on Friday, August 21, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Gerald Watkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Gerald Watkins, Co-Chair; Senators Joe Bowen, Ernie Harris, Jimmy Higdon, Dorsey Ridley, Brandon Smith, Johnny Ray Turner, and Robin L. Webb; Representatives Rocky Adkins, Hubert Collins, Leslie Combs, Tim Couch, Will Coursey, Jim Gooch Jr., Thomas Kerr, Jerry T. Miller, Sannie Overly, Tom Riner, Dean Schamore, John Short, and Fitz Steele.

Guests: Ms. Melissa Howell, Executive Director, Kentucky Clean Fuels Coalition; Mr. Chris Perry, President and CEO, Kentucky Association of Electric Cooperatives; Mr. Scott Gentry, Kenergy Project Chairman and Vice President, Kentucky Association of Electric Cooperatives; Mr. Jonathan Grove, Cumberland Valley Electric and Kentucky Association of Electric Cooperatives; and Mr. Jim Petreshock, Owen Electric and Kentucky Association of Electric Cooperatives.

LRC Staff: D. Todd Littlefield, Janine Coy-Geeslin, and Kelly Blevins, Committee Assistant.

The minutes for June 19, 2015, and July 17, 2015, were approved, by voice vote, upon motion of Representative Hubert Collins and seconded by Representative Leslie Combs.

**Transportation Technologies Across the Bluegrass**

Melissa Howell, Executive Director, Kentucky Clean Fuels Coalition (KCFC), gave an update of ongoing alternative fuel projects in Kentucky. Ms. Howell testified about private companies and local government entities changing their fleets to liquefied natural gas (LNG) and compressed natural gas (CNG). Examples include M&M Cartage, Lexington-Fayette Urban County Government, AT&T and UPS. E-Z Pak is a company in Cynthiana that is manufacturing cement haulers and refuse trucks to use CNG. There are seven operational CNG fueling stations in Kentucky with two under construction and five proposed. Not all CNG stations are available for public use. There is one operational LNG station in Walton and one waiting for an anchor fleet in Georgetown.

Ms. Howell provided an update on the various types of fuel being used by private companies and government entities. E85 is available in Louisville, Lexington, Elizabethtown, Frankfort, and other Kentucky locations. Crittenden County did a pilot project with the Department of Education using a propane school bus that saved approximately $5,300 in fuel for one year. There are approximately 30 propane powered school buses in operation in Kentucky. Sixty-five more buses will be ordered in September. Propane powered vehicles are also used by Mammoth Cave National Park and Schwan's Company. There is a Biodiesel (B20) plant in Owensboro, Kentucky. Griffin Industries, Anheuser-Busch, UPS, and Carmeuse Lime Mines have been using biodiesel trucks. About 5 percent of all diesel sold in Kentucky has a biodiesel component. The Kentucky Clean Fuels Coalition partnered with LG&E/KU to buy Volts (all electric vehicles). TARC in Louisville has 15 all electric Proterra buses that can recharge their batteries in 3 minutes; Lextran has ordered five buses. Zenith Motors is building electric shuttle vans. Mammoth Cave National Park is installing four electric recharge stations which will be solar powered. There are 103 personal electric vehicles in Kentucky, and most recharging stations are at dealerships.

Ms. Howell provided an update on energy projects in Kentucky. Five projects had been approved by the Kentucky Cabinet for Economic Development for the Incentives for Energy Independence Act program. Owensboro Community and Technical College was awarded $745,602 in grant funds from the National Science Foundation to develop a curriculum for training students to work on alternative fuel and regular fuel engines. Thus far, 208 students have completed the program. The University of Louisville (U of L) is developing an energy school, a National Science Foundation program. U of L will be the anchor school and will partner with other schools outside Kentucky to establish a national research center to develop, advance, and apply technologies for improving energy efficiency and environmental sustainability of ground vehicles.

In response to Representative Collins, Ms. Howell said propane is ideal for light duty vehicles and buses. The best return on investment for heavy duty trucks is with natural gas. Ms. Howell said Kentucky is not collecting road tax on totally electric vehicles.

In response to Senator Carpenter, Ms. Howell said regional haulers cannot afford to put in infrastructure to support their fleet. Heavy duty fleets can help with regional haulers. Small business fleets have incentives in other states. Ms. Howell said she would provide the members information regarding incentives in other states.

In response to questions from Representative Miller, Ms. Howell said the Jefferson County Public School system is not moving to propane, but it has 50 hybrid electric buses. She did not know why the system is not moving to propane. E85 vehicles are 15 to 25 percent less efficient.

In response to Representative Combs, Ms. Howell said as part of a hybrid electric bus project, a female driver in Pike County doubled her miles per gallon with her bus. She did not know if Pike County had ordered any propane buses.

Representative Riggs reported his experience with his E85 truck was very positive. There are many people who do not know they can use gasoline or E85 flex fuel in their vehicles.

In response to Representative Collins, Ms. Howell said that a propane gas bus costs about $22,000 more than a gasoline bus. However, with a $5,200 fuel savings, the return on investment is about 4 years. School buses are retained by school districts for about 14 years.

**Cyber Security Framework for Electric Cooperatives**

Chris Perry, President and CEO, and Scott Gentry, Vice President, Kentucky Association of Electric Cooperatives (KAEC), presented a report on Cyber Security Framework Proposal for Electric Cooperatives. There are 24 distribution electric cooperatives that are not regulated because they do not have generation assets. The Public Service Commission (PSC) received a grant and did a study on how distribution cooperatives were dealing with cyber security issues. Guernsey, a consultant, was hired to do an analysis of cooperatives' policies and procedures for cyber security. The cooperatives are developing protocol and procedures for dealing with cyber security. They found that the largest risk for a breach of cyber security was the employees of the cooperatives.

Mr. Gentry presented the Cyber Security Framework proposal. He said that Guernsey looked at six Kentucky electric distribution cooperatives of the 24 in the state. Areas of focus included 21 areas of cyber issues such as IT risk management, password parameters, personnel security, remote access and many more. The subcommittee worked with PSC to develop a framework, a package of policies, controls, and best practices to disseminate to the cooperatives throughout the state. ISO 27001 was the framework used by the subcommittee because it was used in the Guernsey study.

Mr. Gentry said the subcommittee came up 25 policies dealing with open source best practice IT policies and controls, Cyber Security Employee Awareness & Training Program, Cyber Security Achievement Program, and sample cyber security procurement language and questions. The proposed framework is not a fully complete cyber security program. The subcommittee did not intend for the framework to be a one size fits all. He said that additional work is necessary for defined IT procedures, disaster recovery plan, PCI compliance policies and plan, and FACT Act Red Flags Rules Policies and Plan. Cooperatives are different sizes with different staffing levels. The proposed framework is not mandatory, but all IT members in attendance are planning to adopt a formal program.

Mr. Gentry said they are providing a source document to establish a formal cyber security program. This was an open source document that the subcommittee revised to meet the needs of the cooperatives. Sans.org was a significant source for program policy development. Mr. Gentry said that the Continuous Employee Training Program was recommended to keep cyber security current threats in front of the employees. Kenergy has already adopted this program. Employees go through training modules once a month. The Kentucky Cyber Security Achievement Program is a recommendation for cooperatives to come together and do a self-assessment program. A group of IT representatives from the cooperatives would go to a cooperative, do a high level review of their cyber security programs, and make recommendations. Mr. Gentry stated that when using outsourced information processing, there is a recommendation that appropriate cyber security language be placed in third-party outsourcing agreements. Language may include indemnification and liability assignment, requirements to provide adequate access controls, and an audit clause or requirement to provide an independent compliance report such as an SSAE 16. Mr. Gentry also said that the subcommittee recommended that cooperatives have a formal cyber security program in place and provide documents to help them develop a strong program. However, if a cooperative already had a program in place, the subcommittee recommended using the documents as additional resources to enhance their cyber security program.

Mr. Gentry said that the subcommittee had received requests for the proposed framework from the National Rural Electric Cooperatives Association, the Department of Homeland Security and other states' cooperatives. Kentucky is being nationally recognized for the subcommittee's work on cyber security.

In response to Representative Riner, Mr. Perry said they are working with homeland security and FBI to prevent terrorist attacks on infrastructure.

In response to Representative Schamore, Mr. Gentry said IT personnel are always worried about hackers.

In response to Representative Collins, Mr. Perry said all of the cooperatives are participating and sharing information about cyber security. Mr. Gentry added that cyber security is not free due to added security walls but that is the cost of doing business to protect their infrastructure. He said any business that has customer data has to protect that information and has the same issue.

In response to Representative Combs, Mr. Gentry said hackers are constantly trying to infiltrate their firewalls at Kenergy, but he does not know of any cooperative in Kentucky that has lost data.

In response to Representative Schamore, Mr. Perry and Mr. Gentry agreed that without IT security, power would cost more and the level of service would be lower.

There being no further business, the meeting was adjourned at 11:30 a.m.

## INTERIM JOINT COMMITTEE ON JUDICIARY

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

August 24, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Monday, August 24, 2015, at 10:00 AM, at the State Police Central Forensic Lab in Frankfort, KY. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Danny Carroll, Carroll Gibson, Ray S. Jones II, Alice Forgy Kerr, John Schickel, Wil Schroder, Dan "Malano" Seum, and Robin L. Webb; Representatives Robert Benvenuti III, Denver Butler, Joseph M. Fischer, Kelly Flood, Chris Harris, Joni L. Jenkins, Thomas Kerr, Stan Lee, Mary Lou Marzian, Reginald Meeks, Suzanne Miles, Darryl T. Owens, Ryan Quarles, Tom Riner, Ken Upchurch, and Brent Yonts.

Guests: Chief Medical Examiner Dr. Tracey Corey, Central Forensic Laboratory Manager Laura Sudkamp, Executive Director of the Kentucky Office of Drug Control Policy Van Ingram, and Jayann Sepich.

LRC Staff: Jon Grate, Matt Trebelhorn, Dallas Hurley, Alice Lyon, Chandani Jones, Elishea Schweickart, Beth Taylor, and Lindsay Huffman.

**Overview of Office of the State Medical Examiner**

Dr. Tracy Corey, Chief Medical Examiner at the Office of the State Medical Examiner, presented information about the office to the committee. The mission of the State Medical Examiner Office is to serve the public by providing accurate, thorough, efficient investigations of death, ensuring justice, and providing solace, comfort, and protection to the living. The death investigation system in Kentucky is a combination of county coroners, medical examiners, law enforcement agencies, and courts across all 120 counties. If a death appears to be suspicious, then the county coroners can consult with the state medical examiners system, which is part of the Justice Cabinet.

The Kentucky Medical Examiner Office has four regional offices located in Frankfort, Ft. Thomas, Louisville, and Madisonville. The 12 state medical examiners who work in these offices are all forensic pathologists and conduct post mortem examinations. The Frankfort office serves the Lexington metro area along with most of eastern Kentucky. The Ft. Thomas office covers mainly Campbell, Boone, and Kenton counties. The Louisville office is the biggest and busiest office, covering Louisville metro and central Kentucky. Madisonville is a solo practice office, which currently holds a vacant forensic pathologist position. Each year, approximately 2,500 postmortem examinations are conducted at the four regional offices.

Dr. Corey spoke about the requirements and duties of forensic pathologists. Forensic pathologists are physicians who are also required to have five years of training after completion of medical school. The work and time required helps contribute to the national shortage of forensic pathologists, with fewer than 500 practicing full time in U.S. coroner/medical examiner offices.

Medical examiners not only work with the deceased, but also provide protection in both public health and public safety. Their duties may also include:

Provision of expert testimony throughout the Commonwealth;

Providing training to coroners and law enforcement;

Interfacing with Kentucky Organ Donor Affiliates to ensure maximum organ and tissue donation to save lives; and

Mass disaster planning and response.

Responding to a question from Senator Westerfield, Dr. Corey stated that real-time information on overdose deaths is provided monthly and quarterly to the Kentucky State Police. This information is also included in an annual report, which can be found on the Justice and Public Safety Cabinet's website.

Dr. Corey discussed outdated facilities, which are a major concern for the State Medical Examiner. Two facilities, the Louisville and Ft. Thomas offices, are inadequate for current needs. Louisville Metro Government is closing the current Louisville building, so the medical examiner's office will be moving to an existing state-owned building on the Central State Hospital campus after it is remodeled. The Northern Kentucky office has no space for storage of forensic cases and evidence, has inadequate autopsy space, and cases (including decomposed remains) must be taken through the front entrance of the hospital. Dr. Corey said that the medical examiner's office has outstayed its welcome at both these locations, and the medical examiners in these locations need adequate buildings to be able to do their jobs successfully.

Secretary J. Michael Brown, Kentucky Justice and Public Safety Cabinet, also discussed the issues in the medical examiners offices. He discussed the outdated facilities and urged the committee to consider this problem and remember these needs in the upcoming session. He discussed the low salaries for medical examiners and how they add to the shortage of medical examiners. He asked members to remember this issue as well in the upcoming session.

Responding to a question from Senator Gibson, Dr. Corey stated that there is a forensic pathology fellowship, but applicants must have their M.D. degree first.

Responding to a question from Senator Carroll, Dr. Corey stated that Tennessee's private practice model is not a model that Kentucky would want to emulate.

Responding to a question from Representative Fischer, Secretary Brown stated that at this time the only way he can get a new building for the Northern Kentucky Medical Examiner's office is to get the money through the General Assembly. The estimated dollar amount is about $4 million.

**Overview of State Crime Lab and Emerging Issues–Synthetic Drugs and Drugged Driving**

Laura Sudkamp, Central Forensic Laboratory Manager, and Van Ingram, Executive Director for the Kentucky Office of Drug Control Policy, provided the overview. There are currently six laboratories: Central lab; Western lab; Jefferson lab; Northern lab; Eastern lab; and Southeastern lab. All labs have a blood alcohol unit and a drug identification unit. Three of the labs have a firearms evidence unit, and four of the labs have biology screening. The Central lab in Frankfort is the only lab that has a DNA evidence unit, trace section, and toxicology unit.

In 2014, 38,000 cases were received and 36,000 were completed. Toxicology cases make up about 90 percent of the state crime lab's case load, and when it is backed up the effects not only occur within the crime labs, but also the courts. Because of the lack of funds, equipment at the laboratories has fallen behind or had to be piecemealed together upon failing by scavenging scrap equipment, which leads to back-up of caseloads. Many pieces of equipment used by the crime labs are 10-12 years old, because of the age of the equipment having to be used, many parts are no longer being manufactured, adding more stress to an already challenging situation. To keep equipment running and replaced when needed, the state crime labs need recurring annual budget money. Not only are funds substantially low, but at this time, there are only 92 analysts working these caseloads, which only adds to the back up.

With the few new instruments that are in place, the state crime lab can now identify heroin in biological samples. Several other drugs can also be identified, including Lorazepam, Clonazepam, Temazepam, Morphine, Oxymorphone, Hydromorphone, Fentanyl, and Tramadol. With the new technology, it is recommended that these drugs be added to the existing drugged driving prohibition.

Van Ingram, Executive Director of the Kentucky Office of Drug Control Policy, spoke about a bill in the 2015 Legislative session that would have addressed some technical issues with the drugged driving statute, but the bill did not pass.

Ms. Sudkamp also discussed synthetic cannabinoids, bath salts, and designer drugs. There are cases that are suspected to be sneaking through the system, simply because the lab is unable to identify them at this time. This is a nationwide problem, and because of this, there have been several private laboratories focusing on it. After the state crime lab backlog is under control, the plan is to research the chemicals in these drugs further. Although this is years away, it will hopefully end the need to outsource these cases to these private laboratories.

Ms. Sudkamp also spoke about the schedule issue surrounding Hydrocodone. In October 2014, federal law changed Hydrocodone from a schedule III to a schedule II drug. Kentucky law still lists Hydrocodone in schedule III, which is causing some problems for the state crime labs and for prosecutors. Mr. Ingram stressed that this is an issue that needs to be addressed in the 2016 session.

Forensic Biology Casework is another area that the state crime lab has had backlog issues with. The current average turnaround time for screening/identifying body fluids is 114 days, and DNA analysis is 125 days. This backlog is due to the lab being short staffed, and while the lab is trying to hire new analysts, it is a yearlong process.

Ms. Sudkamp also touched on the issues with employee retention. Between 2013 and 2015, the state crime lab lost six out of seven biology screeners at the regional labs and one DNA analyst at the Central lab. It is believed this is due to low wages. A salary survey is planned, and she will work with the Personnel Cabinet to try to update salaries. Currently, Kentucky has the second lowest mean wage average for forensic scientist salaries in the United States.

Another bill request that Ms. Sudkamp proposed relates to felon arrestees. Twenty-eight states and the federal government have enacted laws pertaining to arrestee DNA, and it has been upheld by the U.S. Supreme Court. Taking DNA samples upon arrest for certain crimes has been shown to prevent violent crimes. A study prepared by the Office of the Governor of Maryland identified 20 violent crimes that could have been prevented if DNA had been taken from just three individuals. She expressed the desire to see this legislation in Kentucky in 2016.

Ms. Sudkamp reviewed the needs of the labs. The labs have an annual operational budget of $11 million to $13 million annually. The equipment needs to be replaced every seven to ten years but the labs are unable to do so because of low funds. The labs need $3 million to $5 million annually to improve the issue with failing equipment.

Mr. Ingram discussed a current DUI mouth swab test being done across the state. This is a joint project between the Office of Drug Control Policy, the State Crime Lab, and the Department of Highway Safety. The test is voluntary, performed on persons suspected of a DUI, and is not being used in court as evidence. The kit tells an officer if specific drugs are in a person's system by using a mouth swab.

Responding to a question from Senator Webb, Ms. Sudkamp stated that there is a protocol for the mouth swabs, and it has been given to all the officers who are preforming the test. After the lab reviews the test results, the swab kits are destroyed.

Responding to a question from Senator Carroll, Ms. Sudkamp stated that she expects about 25,000 extra samples a year if arrestee DNA becomes legal in the state of Kentucky.

**DNA on Arrest**

Jayann Sepich, from DNA Saves, spoke before the committee about taking DNA on arrest. There are 28 states that have passed laws mandating that DNA samples be taken on arrest. Mrs. Sepich spoke about her daughter who was brutally assaulted and murdered in 2003. It was discovered that her daughter, Katie, had fought back during the assault, and as a result, there was DNA from the offender under her fingernails. The DNA profile was uploaded into the Combined DNA Index System (CODIS), but because it was illegal to take DNA on arrest, the offender, who was subsequently arrested on other charges, went free for years before finally being charged with this crime.

Mrs. Sepich also spoke of multiple DNA studies that have been done over the years. One study, out of Chicago, followed eight convicted felons. Results of this study showed that if those eight individuals would have had a DNA sample taken with their first felony arrest, 53 rapes and murders could have been prevented. Another case, out of California, involved a man who had been arrested 21 times over a 15 years period, but none of these arrest warranted a DNA sample to be taken from him. After a rape conviction, a DNA sample was taken, and officials discovered that during that 15 year period he had sexually assaulted and murdered 12 women. Not only was this man charged with these crimes because of DNA evidence, but an innocent man was exonerated from one of these crimes. The University of Virginia did an independent study pertaining to the cost of DNA on arrest. The University found that for every cheek swab, which cost $30.00 on average, taxpayers could save up to $27,000.00.

The states that have mandated that DNA samples be taken have had good results. New Mexico passed "Katie's Law" in 2006; since then, 928 crimes have been matched to their arrestee DNA database. California is getting an average of 10 matches every day to their DNA database. Denver just announced that since it implemented the DNA on arrest law in 2010, it has matched 500 crimes to the DNA database.

Mrs. Sepich explained CODIS. DNA holds an individual's genetic blueprint. CODIS was developed specifically to protect an individual's privacy, it is not a genetic or medical database. A DNA profile containing only 13 markers is entered into CODIS, not the DNA itself, and this provides privacy to each individual in the system. Once there is a DNA match to an offender profile, the state is notified, and the state then reanalyzes the DNA to assure accurately. After the results are reanalyzed, a separate and secure database is accessed with the identity of the offender. It is a federal offense to tamper with CODIS, and there has never been a federal breach since it went live in 1994. In June 2013, the U.S. Supreme Court held that arrestee DNA does not violate the 4th amendment of the U.S. constitution.

Michelle Kuiper, a victim of sexual assault, spoke in favor of arrestee DNA. Ms. Kuiper spoke briefly of her background, and discussed the assault she underwent. The perpetrator was not apprehended until 17 years after her assault. She urged the committee to consider DNA on arrest.

The meeting adjourned at 12:05 PM.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

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

August 27, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 27, 2015, at 10:00 AM, in the VIP Room, Freedom Hall, Louisville, Kentucky. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Tom McKee, Co-Chair; Senators C.B. Embry Jr., Chris Girdler, David P. Givens, Stan Humphries, Dennis Parrett, Dorsey Ridley, Damon Thayer, and Whitney Westerfield; Representatives Lynn Bechler, Mike Denham, Derrick Graham, David Hale, Richard Heath, James Kay, Kim King, Michael Meredith, Suzanne Miles, Terry Mills, David Osborne, Sannie Overly, Ryan Quarles, Tom Riner, Bart Rowland, Steven Rudy, Dean Schamore, Rita Smart, Wilson Stone, and James Tipton

Guests: Representative Jonathan Shell, Representative Dennis Keene, Representative Linda Belcher, Clifford "Rip" Rippetoe, President and CEO, Kentucky State Fair Board (KSFB), Tom Schifano, Louisville, KSFB, Gib Gosser, KSFB, Ron Carmicle, KSFB, Fred Sarver, KSFB, Dr. Mark Lynn, Chairman, KSFB, Jim Cauley, KSFB, Bill Tolle, KSFB, Marshall Coyle, KSFB, Roger Thomas, KSFB, Dr. Nancy Cox, Dean, University of Kentucky College of Agriculture Food and Environment, KSFB, Louisville Mayor Greg Fischer, Commissioner James Comer, Kentucky Department of Agriculture (KDA), Dakota Meyer, recipient of the Medal of Honor, and Miss Kentucky 2015 Clarke Davis.

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

The July 8, 2015 minutes were approved, by voice vote, without objection upon motion made by Representative Steven Rudy and second by Representative David Hale.

**Report of the Kentucky State Fair Board**

Mr. Rippetoe announced the appointment of Steve Kelly, Deputy Commissioner of KDA, as the new Executive Director of Expositions beginning September 16, 2015. The board has been working with and talking to exhibitors. Board members are briefed daily on the operations of the fair. The most exciting thing about the Kentucky State Fair this year is the weather compared to last year's eight days of rain and four nights that the grounds had to be evacuated.

The purpose of the Kentucky State Fair is to advance Kentucky's economy by serving convention, tourism, and agriculture industries while honoring the heritage of all the agriculture roots. It is important to reach out to the county fairs. KSFB members visited 29 county fairs and horse shows. Various commodity groups are business partners by contributing Kentucky Proud products for the fair, the North American International Livestock Exposition (NAILE) show, and year-round events.

Mr. Rippetoe said there had been a real need for an additional day for the World Championship Horse Show so it was decided to eliminate concerts on that night. KSFB decided to bring back car-load days, which are more affordable for families. Prepaid, discounted parking tickets are also available. To help with overflow, Papa John's Football Stadium provides free parking. On the first Saturday of the fair, attendance was around 74,000 and on Sunday the attendance was approximately 52,000, representing the best Sunday attendance in almost a decade.

Mr. Rippetoe said that Heritage Hall and Commercial Exhibits vendor areas had been sold out. General exhibits such as agricultural crops and poultry were down because of sanctions regarding the bird flu. Entries for beef cattle were flat but the dairy and steer shows were good. Sheep and swine entries were up causing a "good" problem in that more floor space is needed. Storage is becoming a real issue due the condition of Cardinal Stadium. All the stalls have been moved into tents and storage into parking lots under tarps. Mega-Caverns stores the basketball courts. The board will present a new six-year plan to the legislature seeking funding for the demolition of Cardinal Stadium and building an Agriplex that will consist of storage and be suitable for other agriculture related events throughout the year.

Mr. Rippetoe stated that there is no other facility in North America that can compare to the Exposition Center and Convention Center, both combined under one organization that also produces three shows owned by one entity. Kentucky is in a unique situation and it is important to remain competitive nationwide. KSFB will advance a master plan covering the next 5, 10, 15, and 20 years so it can continue to grow as an organization and continue to support agriculture.

The two facilities host over 380 events a year, generating over $480 million in economic impact. Out of the $480 million generated, $36 million went to taxes with approximately $34 million of that going to the state general fund. There are deferred maintenance issues with the Exposition Center. Some tax revenue could be used to help invest further to protect the Kentucky Exposition Center.

Over the course of time there has not been funding to help maintain the facilities. According to Mr. Rippetoe, the fair and the Convention Center has a significant impact on the economy in the Commonwealth but to grow the board has to start looking at deferred maintenance and trying to find ways of repairing infrastructure and move forward. As important as agriculture is and always will be, the board also has to pay attention to the rest of the business. It is true and questions have been asked in the past that 50 percent of gross revenues come from the three shows.

Mr. Rippetoe said that if the Farm Machinery Show was taken away, the State Fair and the NAILE would be doing good to break even. The Farm Machinery show is an agribusiness trade show. In looking at agriculture, Mr. Rippetoe said he was talking about livestock and those things that can promote Kentucky and the agricultural industry statewide and nationwide. From a pure events standpoint, 17 percent is agriculture related, which includes the State Fair, the NAILE, Farm Machinery Show, Beef Expo and others. The board is bringing in sponsor consultants to help find ways of doing more sponsorships. Sponsorships are about a 90 percent return on investments when done right. Roofs were damaged in the hailstorm in 2012 and even though a settlement was reached, it was $7 million short of what is needed to fix the roofs. Most asphalt is at least 22 years old, and about 40 percent of the chairs are 30 years old.

Mr. Rippetoe said that the board has the ability to generate economic impact and continue to be the most prestigious facility in North America. The Farm Machinery Show is second to none. Everybody in the farm machinery show business wants to be us. It is even more prestigious that the NAILE. There have been questions about the continuation of the NAILE shows. Those shows will continue for many years. The NAILE is wholly owned by the Commonwealth, and it is the board's pleasure to be able to produce the

NAILE on behalf of the Commonwealth. The board takes a great deal of pride in that the NAILE is world renowned in being the largest purebred livestock show.

In response to Senator Parrett, Mr. Rippetoe said that out of the $480 million total economic impact, agriculture related events, including the Farm Machinery Show, account for an approximately $60-$70 million economic impact.

In response to Representative Stone, Mr. Rippetoe said the 2015 North American should go as smoothly as always. The goal is to continue to make the NAILE the best show ever. Mr. Rippetoe said that he would be the General Manager, per the Governor's Executive Order and Mr. Kelly would be assisting with the NAILE and he will be in charge of overseeing the State Fair and the Farm Machinery Show. It is a priority that all the transitions happen smoothly.

In response to Representative Tipton, Mr. Rippetoe stated that any request for proposal for food included a section for all vendors to comment and made a commitment to Kentucky Proud products.

Representative Smart said that she was glad to see that some of the board members traveled to different county fairs throughout the Commonwealth listening to their concerns.

In response to Representative Miles, Mr. Rippetoe said that an Executive Order established a 21-member Kentucky State Fair Board. Those members include two ex-officio members who are the presidents of 4-H and FFA. An Executive Order named Mary Taylor Cowles, a member-at large, as well as the sitting Executive Director of the Governor's Office of Agricultural Policy, Roger Thomas. That Executive Order established a chairman and 18 members, nine agribusiness versus non-agribusiness by definition. It also established the sitting CEO of the Fair Board as General Manager of the North American, and it established a sitting CEO as the Chair of the Executive Committee of the North American.

In response to Representative Mills, Mr. Rippetoe said that attendance had been trending significantly upward from last year. Monday, Tuesday, and Wednesday are generally flat because of school.

Mr. Rippetoe said that board members received great suggestions when traveling to different county fairs. Based on some of the suggestions, there could be changes to entertainment and attractions. KSFB would be looking at making rules changes in some of the livestock shows.

**Remarks on the Louisville/Jefferson County Farm to Table and other Food Marketing Programs**

Mayor Greg Fischer stated that there are five economic development clusters in the city which focuses on food and beverages. Louisville was recently named number two in the country for the local food and restaurant scene because of its ties with Kentucky farmers. The mayor said there had been over 700,000 visitors to the bourbon trail, creating a real economic impact. The farm to table movement has good momentum and Louisville is continuing to work with farmers and making connections with artisanal and organic farmers. Mayor Fischer stated that large users of food are starting to expand from a standard Sysco product to a Sysco local food product. The University of Louisville is buying whole cattle from Kentucky farmers, and the offerings have been well received by the students.

Mayor Fischer said a proposed "food port" would help push more local food through the community and tie it in with the big users. The food port would be receiving, processing and distributing locally grown food. The port would also be an education center, urban demonstration farm, and contain the University of Kentucky Extension offices. Survey data shows that Louisville consumes about $2 billion a year worth of food. Approximately $300 million of that has some connection with the local food movement. A survey indicated that there is a food demand of $800 million. The survey also showed people wanting more local food because of higher quality and supporting local businesses.

Senator Hornback said Louisville had done a great job of promoting locally grown products and encouraging surrounding communities to participate.

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

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

### Minutes of the 1st Meeting of the 2015 Interim

August 26, 2015

**Call to Order and Roll Call**

The first meeting of the Interim Joint Committee on State Government was held on Wednesday, August 26, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brent Yonts, Presiding Chair, called the meeting to order. He recognized new members of the interim committee, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Julie Raque Adams, Denise Harper Angel, Stan Humphries, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, and Albert Robinson; Representatives Kevin Bratcher, John Carney, Leslie Combs, Will Coursey, Joseph Fischer, Jim Gooch Jr., Derrick Graham, David Hale, Mike Harmon, Kenny Imes, James Kay, Martha Jane King, Mary Lou Marzian, David Meade, Suzanne Miles, Phil Moffett, Brad Montell, Sannie Overly, Darryl Owens, Tom Riner, Steven Rudy, Sal Santoro, Kevin Sinnette, Tommy Thompson, Tommy Turner, and Ken Upchurch.

Guests: Representative Arnold Simpson; Representative Ruth Ann Palumbo; Beau Barnes, Kentucky Teachers' Retirement System; and Gabrielle Summe, Kenton County Clerk.

LRC Staff: Judy Fritz, Alisha Miller, Karen Powell, Brad Gross, Greg Woosley, Kevin Devlin, Terrance Sullivan, and Peggy Sciantarelli.

**16 RS BR 58, An Act relating to county clerks**

Representative Arnold Simpson, sponsor of BR 58, and Senator Chris McDaniel testified in support of the prefiled bill. It was presented for discussion only. Gabrielle Summe, Kenton County Clerk, accompanied them and spoke in support of the legislation. It would repeal 1860 Kentucky Acts Chapter 351, approved February 18, 1860, entitled "An Act to establish an office for the recording of deeds and mortgages at Covington." Acts Chapter 351 required individuals recording deeds and mortgages relating to properties in certain areas of Kenton County to file those in Covington rather than Independence.

Ms. Summe explained why Chapter 351 was created in 1860 and how its repeal will benefit Kenton County through cost savings and increased efficiencies, both administratively and for the general public. There is no longer a need to divide the county for the purpose of recording deeds and mortgages. Repeal of the 1860 Act will simplify the recording process and make it less confusing.

There were no questions from the committee, and Representative Yonts thanked the speakers.

**Kentucky Teachers' Retirement System – Funding and Unfunded Liability**

The guest speaker was Beau Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System (KTRS). He provided print copies of his on-screen presentation.

Mr. Barnes stated that KTRS was established by the General Assembly in 1938 and funded in 1940. KTRS administers a defined benefit group retirement plan for local school districts and other public educational agencies in the state. Current employers are comprised of 173 local school districts, the Kentucky Community and Technical College System (KCTCS), 17 educational agencies, and five regional universities (Eastern, Western, Murray, Morehead, and Kentucky State Universities). KTRS hires professional consultants for actuarial, legal, auditing, financial, and other services to assist the Board of Trustees and staff. KTRS is also a member of 14 professional organizations. Payments to consultants, including money managers, are enumerated in the KTRS comprehensive annual financial report.

The KTRS normal cost to pay retirement benefits is modest at 16.75 percent of payroll, with the state's contribution at 7.64 percent. KTRS does not have funds to meet its other kind of cost—the unfunded liability, represented by benefits compensation already earned by teachers.

KTRS has low administrative and investment costs. Investment performance has been solid and had a positive impact on Kentucky's economy. A 2012 report by the LRC Program Review and Investigations Committee shows that KTRS investment fees and administrative expenses from FY 2002 to FY 2009 were among the lowest in the nation. KTRS manages about one-third of its assets in house, which helps keep investment costs low. As of June 2014, KTRS administrative expenses, as a percentage of assets, were lower than those of similar size systems in Kansas, New Mexico, Georgia, Louisiana, Ohio, and Indiana. KTRS also bears the cost of administering a retiree medical insurance program, unlike some other similar size plans.

Mr. Barnes said the KTRS Board has administered the retirement system in a reasonable and cost efficient manner. Changes directed by the

Board put reemployment on an actuarially sound basis. The average retirement age increased from 54 to almost 58 and average years of service at retirement increased from 27 to 30. Purchasers of "air time" are required to pay full actuarial cost. The annual guaranteed 1.5 percent cost-of-living-adjustments (COLAs) that teachers receive each July are prefunded within the contribution rate. Funding to increase COLAs above the 1.5 percent level have been included in past KTRS budget requests, but the increases were not granted unless prefunded. Per board direction, medical benefits are now prefunded. Since the passage of shared responsibility legislation in 2010, teachers now pay an additional 3.75 percent of their salary for retiree medical benefits. Other modifications to the health insurance program prevented an additional $5 billion unfunded liability in the medical insurance fund from accruing. KTRS saves $11 million annually on purchase of retiree medical prescriptions through a coalition with the University of Kentucky, the University of Louisville, and other agencies. The Investment Committee is structured to generate top investment performance, and KTRS does not do business with money managers who use placement agents. KTRS investment costs are among the lowest in the nation. The investment committee is advised by two highly reputed New York investment consultants, Bevis Longstreth and George M. Philip.

In FY 2015, KTRS paid approximately $2.1 billion in retirement benefits. This has had a positive impact on Kentucky's economy, since 92 percent of retirees live in the state. KTRS has 141,520 members and distributes more than $144 million monthly in retirement benefits. Of 58,967 active members, almost 15,000 are eligible to retire. There have been 1,491 retirements in 2015, the most in any one year since 2001. In June/July 2015, there were 2,082 visitors to the KTRS office, compared to 1,812 in June/July 2014.

Before 2002, teachers and administrators from other states would come to Kentucky to teach for five years in order to access the medical insurance benefit, a practice that was actuarially unsound. As a result of board action, the General Assembly enacted legislation to change requirements for medical insurance participation and to lower the benefit factor from 2.5 percent to 2 percent for retirees having less than 10 years of service. Pension reform legislation in 2008 further adjusted the benefit factors for service of less than six, 10, or 20 years.

Since 2008, KTRS has experienced a negative cash flow. Income from contributions and investments was not sufficient, and it was necessary to begin selling assets in order to pay retirement benefits. Approximately $9.5 million in assets were sold in 2008. About $600 million in assets were sold in the last fiscal year. In FYs 2016-2019, KTRS will need to sell approximately $3.4 billion in assets. Investment strategy is becoming increasingly constrained by liquidity requirements. These constraints will lower future investment returns. Additional funding will help stabilize the situation and improve liquidity. A fixed employer contribution of 13.105 percent was sufficient for years. KTRS investments have performed well since 2013, but due to the 13-year flat market between 2000 and 2013 and the 2008 Great Recession, additional funding for pensions has been needed since the 2006-2008 budget biennium.

A request for additional funding of about $42 million was appropriated in the 2006-08 budget, but additional funding has not been made available in subsequent budget cycles. Without additional funds to begin reducing the unfunded liability, the deteriorating pension fund will be in peril. The KTRS draft budget request for FY 2017-18 indicates that $520,372,000 additional funds will be requested in the first year of the biennium and $488,896,600 in the second year in order to put the pension fund on an actuarially sound basis. This is over and above the request for the statutory 13.105 percent employer contribution. The estimated additional funding requests for the upcoming budget have grown from the $386,400,000 and $487,400,000 amounts requested for FYs 2015 and 2016. Prior to enactment of the shared responsibility legislation enacted in 2010, the employee contribution rate was 9.855 percent. The rate will be 12.855 percent in FY 2015-16, completing the gradual phase-in of additional contributions by employees.

In FY 2007, there was $20 million positive cash flow in the pension fund. Negative cash flow is growing each year, from $10 million in FY 2008 to $439 million in FY 2014. In the last fiscal year 26.5 percent of benefits were paid from selling assets. Negative cash flow is projected to be $650 million in FY 2015 and, without additional funding, to reach over $1.8 billion by FY 2026. Data for FY 2015 will be available later in the year.

As of June 30, 2014, the pension fund was 53.6 percent funded and had an unfunded liability of $14 billion. Under new reporting requirements of the Governmental Accounting Standards Board (GASB) the funding level for the pension fund would drop to 45.6 percent for FY 2014. Medical insurance was funded at 15.9 percent as of June 30, 2014, and the percentage funded is growing each year. The GASB mandate to use a lower assumed rate of return does not apply to the medical benefit fund because it is being funded on an actuarially sound basis. The Commonwealth's General Fund provides about 95 percent of the employer contribution for KTRS. By comparison, about 52 percent of the employer contribution for Kentucky Retirement Systems comes from the General Fund.

At the July 31 meeting of the KTRS Funding Work Group established by Governor Beshear, Morgan Stanley executives William Mack and Dennis Farrell testified that the three major bond rating agencies—Moody's, Fitch Group, and Standard & Poor's (S&P)—are concerned about the unfunded liability and it is becoming a huge issue for states. Moody's gives equal weight to bond debt and unfunded pension liability. Ryan Barrow, Executive Director of the Office of Financial Management, Finance and Administration Cabinet, said he receives inquiries weekly from the bond rating agencies regarding the unfunded liability of the teachers' pension fund and activities of the work group. He also receives inquiries from potential buyers of Kentucky bonds, and some are not buying them because of concern about unfunded liability. Mr. Mack and Mr. Farrell testified that a pension obligation bond by itself is not a solution and would have a negative impact on the Commonwealth's credit rating. A pension obligation bond coupled with a plan can be a neutral event that would not lead to a downgrade in Kentucky's credit rating. They also said the unfunded liability of pension plans can dry up debt capacity just as bonds do. Fully funding the actuarially required contribution is the key to any solution.

Mr. Barnes said he testified to the work group about the scope of the inviolable contract and the findings of the 2007 Blue Ribbon Commission on Public Retirement Systems, which did a detailed study of the inviolable contract of KTRS and Kentucky Retirement Systems. He said the inviolable contract covers all of the KTRS governing statutes—KRS 161.220-161.710. The inviolable contract is subject to amendment, however, for certain retirement allowance calculations, post-retirement reemployment provisions, benefits for members serving as part-time or substitute teachers, the retirement factor for certain qualified years in excess of 30, retired teachers' health insurance, and sick leave payments used for retirement calculation purposes. Regarding retiree health insurance, the inviolable contract applies only to access to group coverage. The work group asked about the guaranteed 1.5 percent cost-of-living adjustment for teachers, which is guaranteed by the inviolable contract. It is built into the contribution structure and is included in KTRS budget requests. Because teachers are not eligible for Social Security benefits, the guaranteed COLA is intended to replicate the annual COLAs provided by Social Security. The KTRS Funding Work Group has scheduled six more meetings and will file its final report by December 1, 2015.

The Public Pension Oversight Board received an update on KTRS investment performance at its August meeting. KTRS continues to rank near the top in investment performance when compared to other pension plans. One-year return was 5.1 percent; 3-year, 12.3 percent; 5-year, 12.0 percent; 10-year, 7.0 percent; 20-year, 7.6 percent; and 30-year, 8.7 percent. KTRS investment return compared favorably to CalSTRS, the California State Teachers' Retirement System, which is one of the largest pension plans in the world. CalSTRS has $191.4 billion in assets and is 68 percent funded.

Mr. Barnes concluded his presentation. During the discussion that followed, several members thanked him for the presentation and commended him for his work.

Responding to questions from Representative Montell, Mr. Barnes said that, based on the current 45.6 percent funding level, GASB projects that the pension fund would probably be depleted in 2036. Approximately 11.5 percent of the current 13.105 percent employer contribution is directed solely toward pensions. Representative Montell said that, for all practical purposes, pensions were fully funded in the year 2000. Today's presentation indicates the normal cost of teachers' pension benefits would require a state contribution of only 7.64 percent. He stated that it was not the lack of funding by the legislature that led to the current unfunded liability. The Commonwealth has not missed one year of funding the employer contribution at 13.105 percent or higher. The solution will not be easy, but it is imperative to address the whole picture and not just funding and investment return. The additional funds requested would not be sufficient in the event of another market downturn.

Answering questions from Senator McDaniel, Mr. Barnes said that Social Security coverage for Kentucky teachers is a possibility but would require a referendum in each school district. It would also be expensive, costing the Commonwealth approximately $90 million per year. He explained the statutory process for selecting board members. The State Treasurer and Commissioner of the Department of Education are ex officio members of the Board. Currently there is one vacancy. With regard to retiree health insurance, the dependent subsidy is provided under the shared responsibility plan enacted in 2010, and retired members pay the full cost of their coverage. Mr. Barnes said he is unsure about the cost of the dependent subsidy but will get that information for Senator McDaniel. He believes it is about $2 million.

Senator McDaniel asked whether, in the event of system default and teacher retirement becoming pay-as-you-go system, is it accurate that the general fund would have to make direct payment, through KTRS, for retiree pensions. Mr. Barnes said that is what the inviolable contract language would say, but financial reality would likely make it impossible. Senator McDaniel said, for example, that if bonds were issued at 4.5 percent interest, to be repaid by the general fund, and KTRS achieved the 7.5 percent assumed rate of return on the bonds, the interest cost to fund the retirement system under a bonding scenario would be 12 percent just to break even. It is important to understand that issuance of a bond would dramatically increase the required rate of return on behalf of the Commonwealth. Mr. Barnes said it is ultimately taxpayer dollars that are involved.

Representative Marzian said she is alarmed by the size of the unfunded liability and believes bonding is the only option. When she asked about interest rates, Mr. Barnes said nothing is guaranteed, but he is optimistic. Indications are that the Federal Reserve will not raise interest rates in the fall.

Responding to Representative Riner, Mr. Barnes said he has heard that House Speaker Greg Stumbo may prefile legislation to direct money from casino gambling into the KTRS pension fund, but he has not spoken with him and is not familiar with the details.

Representative Moffett asked whether thought has been given to extending the amount of service needed in order to retire. Mr. Barnes said the KTRS board has not been averse to changing the plan and has made numerous changes during his own tenure. The Board also established a funding and benefits committee that examines possible tweaks to the plan. The KTRS funding work group has been looking at the possibility of a different benefit tier for new teachers and changes in areas not covered by the inviolable contract.

Representative Carney said he supports structural change to the system and hopes the work group will offer some viable recommendations. He also asked how Social Security spousal survivor benefits would be affected by a KTRS retirement allowance. Mr. Barnes explained that the government pension offset, which is a federal provision that can be changed only by Congress, would reduce spousal survivor benefits by two-thirds of the KTRS retirement allowance. For example, for a $30,000 retirement allowance, $20,000 would be applied to reduce the spousal social security benefit. In most cases the offset would in effect eliminate the spousal social security benefit.

Responding to questions from Representative Upchurch, Mr. Barnes said cash flow for the past fiscal year was worse than expected. The 2036 target year for possible depletion of the pension fund is subject to revision. It could be earlier than 2036 if nothing is done. He confirmed that contributions previously borrowed from the pension fund had been repaid in full, with interest. The Commonwealth issued a bond in August 2010 for $469 million; $2 million went for bond issue cost, and $467 million went back into the pension fund. Representative Upchurch said some of his constituents did not know the money had been repaid. They believe the fund will soon be bankrupt and that the legislature's failure to enact legislation in 2015 to address the unfunded liability was in essence a vote against teachers. Hopefully, there will be some resolution when the legislature meets next year. In the meantime it would be helpful if the professional organizations would do a better job by communicating accurate information to teachers and retirees. Mr. Barnes said it is essential for the General Assembly, governor's budget staff, teachers, and everyone involved to have accurate information in order to solve the problem.

Responding to questions from Representative Harmon, Mr. Barnes said that KTRS foresees future rates of return close to 7.5 percent and feels that is achievable. As of June 30, 2015, 30-year return was 8.7 percent. Some experts view the recent market correction as a good thing. Stocks declined by more than 10 percent, compared to a bear market which is a decline of more than 20 percent. Regardless of what the market does, KTRS has a cash flow problem that requires the selling of assets. In the event of future market downturns, assets might have to be sold at less than actual value in order to pay retirement benefits. The loss in stock value would then further affect the benefit fund. The Morgan Stanley experts spoke about funding as a means to get through a down market, especially when considering the liquidity issues of KTRS. When KTRS was 97 percent funded in 2000, it was based on an illusory market created by the "dot com" bubble. Before that, funding percentage was in the low 70s and returned to that level after the tech market crashed. Negative cash flow is probably going to be over $700 million this year and over $800 million next year.

Responding to a question from Representative Imes, Mr. Barnes reviewed figures in his slide presentation to explain how KTRS arrived at the dollar amount for the $3.3 billion bond proposed in the 2015 regular session. He said that amount was chosen because the revenue streams supported it. The larger the cash infusion to the pension fund, the more time will be available to slowly phase into the full additional funding needed for the pension fund.

Representative Thompson said the KTRS investment return has been exceptional. The assumed rate of return is 7.5 percent, even though the U. S. economy has been growing at only about 2.3 percent. He asked Mr. Barnes whether the unfunded liability would increase if KTRS is able to earn only 2 or 3 percent on investments. Mr. Barnes said that is correct, and stocks would have to be sold below value.

In response to Senator Bowen, Mr. Barnes said KTRS has a number of alternative assets—timberland, for example—and that their value is counted when measuring the unfunded liability. The alternative assets have been strong performers.

Senator Bowen, Co-Chair of the Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs, read the report for the August 25 meeting of the task force.

There being no further business, the meeting was adjourned at 2:49 p.m.

## TOURISM AND DEVELOPMENT

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

August 26, 2015

**Call to Order and Roll Call**

The 2nd meeting of the Tourism and Development was held on Wednesday, August 26, 2015, at 4:00 PM, at the Kentucky Exposition Center, South Wing "C," Room 104. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Rita Smart, Co-Chair; Senators Stan Humphries, Alice Forgy Kerr, Morgan McGarvey, and Johnny Ray Turner; Representatives Denver Butler, Jerry T. Miller, John Short, and Jill York.

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

Guests: Clifford "Rip" Rippetoe, President and Chief Executive Officer (CEO), Kentucky State Fair Board; Ed Hart, President and CEO, Kentucky Kingdom; JD Hamilton, President, Kentucky Marina Association; and Hank Phillips, President and CEO, Kentucky Travel Industry Association.

LRC Staff: John Buckner, Lou DiBiase, Adanna Hydes, and Dawn Johnson.

**Approval of Minutes**

A motion by Representative York and second by Representative Butler to approve the July 27, 2015, minutes carried by voice vote.

**Discussion of school calendars; presentation concerning capital needs at the Kentucky Fair and Exposition Center.**

Clifford Rippetoe, President and CEO of the Kentucky State Fair Board, welcomed the subcommittee and spoke about the Kentucky State Fair and Exposition Center. State Fair Board events contributed $482 million to Kentucky's economy in 2014, generating about $36 million in state and local tax revenue. The Fair receives 74,000 visitors on a given day, with over 230 hosted events, only a small part of which are agriculture related. The Exposition

Center hosts events such as the North American International Livestock Exposition.

Mr. Rippetoe discussed facility concerns such as the demolition of Cardinal Stadium and other needed repairs and plans for the Fair and Exposition Center. He discussed the Center's value and uniqueness compared to similar facilities around the nation.

Senator Girdler noted that the State Fair employs around 1,500 workers. In response to a question from Senator McGarvey, Mr. Rippetoe said the greatest facility needs involve Cardinal Stadium and work on the West Wing.

Ed Hart, President and CEO of Kentucky Kingdom, recounted the history of Kentucky Kingdom and the commitment to providing quality rides and attractions. He discussed the impact of school calendars on the tourism industry in general and on Kentucky Kingdom in particular. Kentucky Kingdom employs 1,000 young people who have to leave each August to return to school; attendance declines significantly at the same time.

J.D. Hamilton, President of the Kentucky Marina Association, discussed the boating and marina industry and the effect of school calendars on boating and water tourism.

Hank Phillips, President and CEO of the Kentucky Travel Industry Association, emphasized the contributions of the tourism industry to Kentucky's economy in terms of employment, tax revenue, and money coming in from out of state. All of these contributions are negatively impacted by school calendars that have young people and families returning to school before the end of the summer.

Mr. Phillips illustrated his point about school calendars with information from Jellystone Park Resort Campground in Cave City, Kentucky, a small family-owned business. According to Mr. Phillips, income for Jellystone, along with tax revenue from state and local sales and transient room taxes, drops precipitously in early August. Changing the school calendar to provide for a later return to school would allow the business to be profitable longer.

A subcommittee member asked whether the tourism industry is more affected by the school calendars in surrounding states, and whether it would make much of a difference if only Kentucky's calendars were changed. Another member asked whether a later return date would be offset by other, compensating adjustments to the school calendar. Mr. Phillips stated that he did not have data on those questions but that he would look into it.

There being no further business, the meeting was adjourned at 5:25 PM.

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

### Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs
### Minutes of the 1st Meeting of the 2015 Interim

August 25, 2015

**Call to Order and Roll Call**

The 1st meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, August 25, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Denise Harper Angel, Morgan McGarvey, Dorsey Ridley, and Albert Robinson; Representatives Kevin D. Bratcher, Joseph M. Fischer, Derrick Graham, Mike Harmon, and Mary Lou Marzian.

Guests: Lynn Sowards Zellen, General Counsel, and Matt Selph, Assistant Director, State Board of Elections; Bill May, Executive Director, Kentucky County Clerk's Association and James Lewis, Leslie County Clerk.

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

**Status of Restrictions on Electioneering in Kentucky in the wake of *Russell, et al. v. Lundergan-Grimes, et al.***

Lynn Zellen, General Counsel, State Board of Elections, testified about the current status of electioneering restrictions in the state following the case of *Russell v. Lundergan Grimes*, in which a federal court struck down Kentucky's electioneering statute on First Amendment grounds. Ms. Zellen stated that the United States Court of Appeals for the Sixth Circuit found that Kentucky's statute was overbroad for two reasons: 1) that the then 300 foot ban on electioneering near the polls on the day of an election was greater than the 100 foot bans previously upheld by the Supreme Court as a "safe harbor" for prohibiting electioneering, and there was no evidence in the record to justify a more expansive restriction; and 2) that there was no private property exception to the ban, which the Sixth Circuit has held is a requirement for any electioneering ban. Because the ruling was only three weeks before the primary, the State Board of Elections promulgated an emergency administrative regulation, as well as an ordinary regulation, to institute a restriction on electioneering near the polls on the day of an election consistent with the court's opinion. The promulgated regulations include a 100 foot ban on electioneering with a private property exception, unless the property is being used as a polling place, and retain the bumper sticker and exit polling exceptions, and reinstate the electioneering ban applicable to buildings used for absentee voting prior to Election Day.

Responding to a question by co-chair Representative Darryl Owens, Ms. Zellen confirmed that the promulgated regulations include a private property exception that would permit a property owner to place a sign in his or her yard or on his or her property even if the property is within the 100 foot buffer zone.

In response to questions by Representative Joseph Fischer as to whether the law needs to be changed following the court's ruling or if the regulation is sufficient, Ms. Zellen stated that it was her understanding that the county clerks were proposing an amendment of the statute to incorporate the provisions of the regulation and to conform with the court's opinion. She also noted that for the time being the regulation was sufficient to restrict electioneering, and that the State Board of Elections has general authority to administer the election laws of the Commonwealth, one of which is to maintain law and order around the polling places, including within the statutory 300 foot buffer, during an election.

Responding to a question by Co-Chair Senator Joe Bowen as to how the polling place property is defined and how the distance restriction applies, Ms. Zellen noted that the 100 foot ban is applicable to the distance from any entrance to a building being used as a polling place if the entrance is unlocked and being used by voters.

A copy of the opinion from the United States Court of Appeals for the Sixth Circuit and the administrative regulations that were filed in response by the State Board of Elections were provided to the members and can be found in the Legislative Research Commission library.

**Kentucky County Clerk's Association's 2016 Legislative Agenda**

Bill May, Executive Director, and James Lewis, Leslie County Clerk and Chair of the Elections Committee, Kentucky County Clerk's Association, led the discussion of the Kentucky County Clerk's Association's 2016 legislative agenda. Mr. May invited members to sponsor a bill for any single item, or to offer suggestions as to who an appropriate sponsor might be, for those bills or for an omnibus elections "clean-up" bill with each of the items included for the 2016 Regular Session.

Mr. Lewis said that KRS 116.095 currently requires county clerks to permit any citizen to inspect or make copies of voter registration records, but the clerks would like to redact social security numbers from those records prior to permitting inspection or copying. This suggested amendment is to prevent the dissemination of personally identifiable information of a voter. He said that KRS 117.087 sets out the process for counting absentee ballots, which must be conducted between 10:00 a.m. and 6:00 p.m. on the day of an election, but because some of the larger counties have difficulty getting all the ballots counted by 6:00 p.m., the clerks would like to amend this statute to allow counting to begin at 8:00 a.m. KRS 117.227 deals with the confirmation of a voter's identity, and Mr. Lewis noted that the military is amending its identification cards to remove a person's signature, which makes it not acceptable as a form of identification for voting in Kentucky. The clerks would like this statute amended to allow any federal or state government issued identification card that has a picture of the voter to be considered acceptable for the purposes of identifying the voter.

Mr. Lewis also stated that the clerks would like to again propose requiring local option elections to be held on primary or regular election days, with a slight change from past proposals that would require if a measure passes that the local government would collect a small portion of the initial license fee and renewal fees to pay for the cost of the election. The proposal would also extend the moratorium on additional local option elections if a measure fails from the current three years to seven years.

Responding to a question by Senator Dorsey Ridley regarding whether an extra two hours is enough for counting mailed-in absentee ballots, Mr. Lewis noted that the boards begin work on the day of election at 6:00 a.m. and the counting period could be extended to that time, but that permitting each county to determine its own start time could lead to confusion and that generally speaking the clerks were in favor of uniformity in the statutes applicable to conducting elections, including in the process of counting absentee ballots. In response to a follow-up question by co-chair Darryl Owens, Mr. Lewis stated that a statutory amendment that permitted counties to begin counting "as early as 6:00 a.m." but that also left discretion with the county boards of elections as to when counting would start in each county would likely compromise the clerks' preferred system of uniform standards.

In response to a question by Representative Derrick Graham, Mr. Lewis stated that no reason is required to be given for a request to view a voter registration card, and so the requests can come from any person walking in off the street, and the clerks would like to protect the sensitive identifying information that can be conveyed by a social security number on those registration cards.

Responding to Co-Chair Senator Joe Bowen, Mr. Lewis clarified that although past proposals called for different methods of paying for local option elections (such as the group circulating the petition or the group circulating if the petition failed), the Clerk's Association's proposal for 2016 would provide for the cost of the election to be paid by a portion of the license fees that are paid by applicants in the newly wet jurisdiction.

Mr. Lewis confirmed that the Clerk's Association was proposing to codify the changes in the electioneering restrictions that were contained in the regulations promulgated by the State Board of Elections. The clerks believe that it is preferable to have these new restrictions enacted by legislation rather than simply relying on the regulation.

In response to a question by Representative Mike Harmon, Mr. Lewis stated that it was not a requirement for a person to include a Social Security number on the registration card, and that the person can register without including that information, but that the form includes it, and because of that many voters do put the information down when registering to vote. Mr. Lewis noted that the number is a unique identifier, and because of this continuing to request the number has some merit from a verification of a voter's identity perspective, but he noted that currently the request is only for the voter to provide his or her last four digits of the Social Security number.

Responding to comments and a question from Representative Joseph Fischer, Mr. Lewis stated that the Clerk's Association's proposed change did not require each voter to present a valid photo identification card in order to vote, but rather was only a change to allow government issued identification cards to continue to be a valid means of identifying a voter even if the card does not have the voter's signature. Mr. Lewis confirmed that the proposal would not change the currently permissible method of confirming a voter's identity by personal acquaintance.

A copy of the changes proposed for the Clerk's Association's 2016 legislative agenda was provided to the members and can be found in the Legislative Commission library.

There being no further business, the meeting was adjourned at 1:30 p.m.

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

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

August 26, 2015

**Call to Order and Roll Call**

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 26, 2015, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Jiten Shah, Green River Area Development District; Jack Couch, KIPDA Area Development District; Rob Rothenburger, Shelby County Judge/Executive; Al Mattingly, Daviess County Judge/Executive; Beth Kuhn, Department of Workforce Development; Terry Martin, Hart County Judge/Executive; Eddie Rogers, Donna Draz, and Wendell Lawrence, Lincoln Trail Area Development District; Greg Terry, Vick Vineyard, and Jennifer Wallur, Purchase Area Development District; Casey Ellis, Owen County Judge/Executive; Mike Prior and David Duttberger, Bluegrass Area Development District; Darryl McGaha, Cumberlands Workforce Development; Reagan Taylor, Madison County Judge/Executive; Rodney Kirtley, Barren River Area Development District; Lisa Cooper, Northern Kentucky Area Development District; Ed Burtner, City of Winchester; Amy Kennedy, Craig Starfield, Todd Ruckel, Buffalo Trace Area Development District; Joe Pfeffer, Mason County Judge/Executive; Gabrielle Summe, Kenton County Clerk; David Cartmell, City of Maysville; Sherry McDavid, FIVCO Area Development District; Gail Wright, Gateway Area Development District; Mike Patrick, Green River Area Development District; Sandy Runyon, Big Sandy Area Development District; Darryl Link, Kentucky Council of Area Development Districts; Mike Buchanon, Warren County Development District; Shelley Hampton and Roger Recktenwald, Kentucky Association of Counties; Bert May, Kentucky League of Cities; and Vince Lang, Kentucky County Judge/Executives Association.

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

**Approval of Minutes**

Upon the motion of Senator Humphries and second by Senator McDaniel, the minutes of the June 24, 2015 meeting were approved.

**Role and Function of Area Development Districts**

Mr. Jiten Shah, Executive Director of the Green River Area Development District (GRADD) thanked committee members the opportunity to talk about Area Development Districts (ADDs), and introduced the other speakers of the panel.

Mr. Jack Couch, Executive Director of Kentuckiana Regional Planning Development Area (KIPDA), presented background information and history of the ADDs. The U.S. Congress enacted the Intergovernmental Cooperation Act of 1968 after many public meetings. Local governments were thinking about, with leadership in the state, how to better improve services. The 15 area development districts were created in Kentucky in 1972. Over the past 50 plus-years, Kentucky's 15 ADDs have evolved from conduits for regional and local economic development planning to catalysts of change in almost all aspects of life throughout the state and in the individual regions. ADDs have been integrally involved with the Governor's 2020 Water Resource Plan. ADDs have also worked to map roads efficiently and economically for the Transportation Cabinet.

Judge Rob Rothenburger, Shelby County Judge/Executive, explained the role of the ADD's Board of Directors. Meetings are open to the public. There is tremendous participation within the ADDs. A financial report is received once a month and reviewed thoroughly by the board. Questions are welcomed regarding the report.

Road updates are very important. When a road is accepted into the county road system, the map updates occur very quickly by the ADD and is then transmitted to the state. Lags in this system being updated cost millions of dollars throughout Kentucky.

ADDs assist greatly in administering grants at a fraction of the cost that other entities would charge.

KIPDA recently completed a regional land use plan for all the members of the district to help each government coordinate their individual land use plans. KIPDA also has an economic development component to build infrastructure which includes the provision of wastewater, water, and roadways on a regional basis, as well as plans that will operate to effectively reduce flood insurance costs for its citizens.

Judge Al Mattingly, Daviess County Judge/Executive, noted that the assistance of the Green River Area Development District (GRADD) is invaluable to his county. GRADD has been involved with delivering services to the elderly, young and disabled.

How GRADD provides well-trained employees for the 21st Century is a constantly moving target. At the beginning of the year, GRADD was tasked with putting the Workforce Innovation and Opportunity Act (WIOA) into place. GRADD settled on a plan, and prepared to implement it. The biggest change between WIOA and the former Workforce Investment

Act (WIA) is local accountability. Education is the key for training in workforce development. WIOA is new and should be given a chance.

Mr. Shah stated that the support of local officials and persons involved in the ADDs. The ADDs learn from past experiences and are flexible. A brochure has been provided that shows how ADDs work.

Senator Bowen said that he appreciates the hard work that everyone involved in the ADDs provides and told the speakers that at some point there needs to be a discussion on funding, accountability, and what happens when things go wrong.

In response to a question from Senator Seum, Mr. Couch replied that southern Indiana was included in the KIPDA ADD because southern Indiana was part of the metropolitan planning organization structure affiliated with the federal highway plan.

In response to a question from Representative Tipton, Mr. Couch said that the majority of funding resources for KIPDA come from federal grants for aging and transportation. Eighty percent of the income is federal, overall, with a state match in some instances. About $17 million or $18 million dollars is spent per year for aging and disability programs. KIPDA board members are regularly informed and there is accountability. An audit and financial report are required every month. There is a monthly financial report that is shared with the public. ADDs want to be accountable and transparent.

Judge Rothenberger said that KIPDA has been hurt by federal cuts for senior citizen services, and advocated for increased money to be spent on these senior citizens on the federal level.

Mr. Shaw stated that the ADDs' financials are monitored constantly by the respective grant agencies.

Judge Mattingly added that local governments contribute funds to the BRADD, and those local governments hold BRADD accountable for the expenditure of those funds.

Senator Humphries commented that county judges need to look for savings that do not hurt people, and wondered what would the Commonwealth look like without the ADDs that have helped with many areas throughout the years.

Representative Crimm commented that there will always be a "meals on wheels" program as long as the people return him to service. The legislature must continue to provide for senior citizens.

In response to a question from Representative Moffett, Judge Mattingly replied that federal money for ADDs does not come in as a block grant. The money comes in with strings attached.

Representative Shell commented that the Bluegrass ADD has been extremely helpful with getting grants for his district. Accountability and transparency must be present.

Representative Westrom commented that transparency has been a big issue with the Bluegrass ADD and that an audit was conducted by the State Auditor of Accounts on the misuse of funds. A bill that she sponsored last session would have required transparency, and she was very heartened by the panel of speakers' remarks that they have no problem with transparency. Representative Westrom shared some key words and phrases from the Kentucky Auditor of Public Accounts' examination of the Bluegrass ADD.

Representative Westrom stated that KIPDA board members are bonded, and protected against adverse financial judgements. ADD board members are culpable and may not all have bonds. Adverse judgments could affect the state. Every dollar that an ADD receives comes from taxpayers. Some fixes relative to ADD transparency and accountability will have to come from the General Assembly.

Representative Meyer commented that the Bluegrass ADD went through trying times, and trying times makes one better. ADDs' teamwork provides cohesiveness. Representative Westrom's points need to be looked at for the ADDs as well as any organization. The Bluegrass ADD has been fully committed. The Bluegrass ADD, as well as other ADDs, are committed to transparency. The legislature needs to get behind the ADDs and make them better.

Representative Riggs told the panel of speakers that the legislature needs solutions from them because they know which districts operate with the best practices. They need to tell the legislature what changes should be made so it a situation that led to the Bluegrass ADD audit report does not occur again. He wondered if the Department for Local Government should be more involved in the oversight and management of the districts, how to improve board members' performances, and whether board members be bonded.

Judge Terry Martin, Hart County Judge/Executive said that he sees a problem regarding vocational education because there is no money being put into vocational education. There is a flood of students wanting to go to vocational school and there is no money to provide that education. Vocational education needs to be focused on in the future.

**Workforce Innovation and Opportunity Act**

Commissioner Beth Kuhn, Kentucky Department of Workforce Investment, said that the key ingredients that go into services in the workforce system are money (which is federal money), rules (which is the Workforce Innovation and Opportunity Act), and plans (which are completed by the locals). The workforce system consists of job-driven individual and employer/customer services, which leads to effectiveness and evaluation of plans. All funding comes from the federal government.

Commissioner Beth Kuhn explained the major differences between the Workforce Investment Act (WIA) and the Workforce Innovation and Opportunity Act (WIOA). Regional planning was permitted under WIA, and is required under WIOA, which is a key difference. WIA required a state annual report, and WIOA requires both state and local fiscal and performance reports. The technology of the future and the technology needs of the customer. WIOA makes accommodations for users of technology, such as in the job search, whereupon the previous act was silent.

System Transformation under WIOA is governance, quality service delivery, the customer at the center throughout, designation, and accountability, transparency and results. While the local physical geography did not change, the regions take into account the reach of the employer. In terms of accountability and governance, the local boards are being assembled. Fiscal procurement is in-process. Kentucky had a focus on career center certification before WIOA. The new act now requires it, so Kentucky is ahead of the game in that regard.

Responding to a question from Representative Denham, Commissioner Kuhn stated that she met with employers on the issue of employees' drug usage, and they are moving the drug testing to random employees after they are hired. It has been too difficult to hire employees with the drug testing being performed beforehand. The agency is moving to ensure that people are employed and able to get appropriate drug intervention aid.

Responding to a question from Representative Shell, Commissioner Kuhn replied that 51 percent of the workforce board is made up of department and business representatives, and 20 percent represent the unions and industry. The board is the focal point for participation and involvement.

Responding to a question from Representative Meredith, Commissioner Kuhn said that under WIA, there is barely any mention of employer metrics, and under WIOA there is much more discussion.

Responding to a question from Representative Smart, Commissioner Kuhn stated that all workforce areas of the state have full service career centers.

Representative Westrom requested an update on how each region is doing and what the needs are on a periodic basis. Commissioner Kuhn said she would provide that information.

Responding to a question from Representative Belcher, Commissioner Kuhn said she would be able to discuss the issue of felons being able to get jobs.

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

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on General Government, Finance, and Public Protection

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

August 27, 2015

**Call to Order and Roll Call**

The third meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 27, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Senators Joe Bowen and Johnny Ray Turner; Representatives Adam Koenig, Brad Montell, Steve Riggs, and Tom Riner.

Guests: Russ Salsman, Chief of Staff, Department for Local Government; Darren Sammons, Staff Attorney, Department for Local Government; Lori Wilson, Local Government Advisor, Department for Local Government; Joe Barrows, Executive Director, Commercial Mobile Radio Service Board; and, Tammy Hubbard, Deputy Administrator, Commercial Mobile Radio Service Board.

LRC Staff: Frank Willey, Katie Comstock, Stephanie Rich, and Spring Emerson.

**Special Purpose Governmental Entities**

Russ Salsman, Chief of Staff, Department for Local Government, provided an overview of Special Purpose Governmental Entities (SPGEs). Darren Sammons, Staff Attorney, Department for Local Government, and Lori Wilson, Local Government Advisor, Department for Local Government, provided a presentation relating to budgeting issues for SPGEs.

In response to questions from Chair Carroll, Mr. Sammons said some examples of SPGEs are volunteer fire departments, public libraries, main street programs, tourism boards, soil and water conservation districts, water districts, airport boards, parks and recreation departments, etc. and they do not have taxing authority. The definition of an SPGE as provided in KRS 65A is any entity that exercises less than statewide jurisdiction; exists for the purpose of providing one or a limited number of services or functions; is governed by a board, council, commission, committee, authority, or corporation with policy making authority that is separate from the state and the governing body of the city, county, or cities and counties in which it operates; and, has the independent authority to generate public funds, or may receive and expend public funds, grants, awards, or appropriations from the state, any agency, city, county, or other SPGE. Mr. Salsman added that SPGEs received public funds in the 2012-2014 state budget and are currently expending those funds. They may or may not receive public funds in future state budgets.

In response to a question from Representative Riggs, Mr. Salsman said the Department for Local Government (DLG) should be given the tools necessary for oversight, such as an Inspector General.

In response to a question from Senator Bowen, Mr. Sammons said a template for starting a SPGE would be difficult due to the variances in how the entities are structured. Ms. Wilson stated that KRS 65.005 specifies the notification requirements.

In response to questions from Representative Montell, Mr. Sammons said fees are set by statute. The fees are Restricted Funds.

Ms. Wilson demonstrated the search options on the DLG website's public portal.

In response to questions from Chair Carroll, Ms. Wilson said the information submitted on the DLG website is monitored and entities are notified for non-compliance.

In response to questions from Representative Riggs, Mr. Sammons said the DLG website is a resource for public use, and any concerns should be directed to the special district, county, or city, depending on the issue.

In response to a question from Chair Carroll, Mr. Sammons said an example of an SPGE with compliance difficulties would be volunteer fire departments. Ms. Wilson said the DLG works with the volunteer fire departments.

**Commercial Mobile Radio Service Board**

Joe Barrows provided an overview of the Commercial Mobile Radio Service (CMRS) Board and its operations.

In response to a question from Chair Carroll, Mr. Barrows said approximately $18 million of $100 million in revenues is from local cell phone fees, and comprises approximately 22 percent of total cost. He said P25 grants are through the Department of Homeland Security and retailers collect the fees.

In response to a question from Representative Koenig, Mr. Barrows said Marion County does not collect a landline fee.

In response to a question from Chair Carroll, Mr. Barrows said some board members are in an advisory capacity, and some are without authority.

Chair Carroll called for a motion to approve the minutes of the June and July meetings; motion was made by Senator Turner, seconded by Representative Riner, and the minutes were approved without objection.

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

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Justice and Judiciary

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

August 27, 2015

**Call to Order and Roll Call**

The 2nd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 27, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Denver Butler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Denver Butler, Co-Chair; Senator John Schickel; Representatives Thomas Kerr, and Martha Jane King.

Guests: LaDonna Thompson, Commissioner, Kentucky Department of Corrections (DOC); Edward Monahan, Public Advocate, Department of Public Advocacy (DPA); Gretchen Hunt, Staff Attorney, Kentucky Association of Sexual Assault Programs (KASAP).

LRC Staff: Zachary Ireland and Amie Elam.

**Department of Corrections**

Commissioner LaDonna Thompson, Kentucky Department of Corrections, discussed personnel pay increases. She also highlighted the staffing crisis facing DOC.

In response to a question from Chairman Butler, Commissioner Thompson said that many new hires leave after training. Many new hires do not realize they will be working 16 hour shifts with very few off days.

In response to a question from Senator Schickel, Commissioner Thompson said that DOC is requesting $5 million for officer retention plus a raise for probation and parole staff.

**Department of Public Advocacy**

Public Advocate Edward Monahan testified about social worker program funding subsequent to SB 192. His presentation included an explanation of the role of Alternative Sentencing Workers and the cost savings associated with this program.

In response to a question from Chairman Butler, Mr. Monahan said the starting salary for an Alternative Sentencing Worker is $33,000 annually. This position is geared towards master's level social workers.

In response to a question from Senator Schroder, Mr. Monahan said DPA is authorized to communicate confidential information with the prosecution with the permission of the client. The program has support from the prosecutors.

**Kentucky Association of Sexual Assault Programs**

Gretchen Hunt, Staff Attorney, Kentucky Association of Sexual Assault Programs, testified about human trafficking in Kentucky. She reviewed Safe Harbor laws, victim resources, and the challenges/gaps facing KASAP.

In response to a question from Representative King, Ms. Hunt said local communities must buy in. People can be trained to lead My Life, My Choice support groups. A task force strategy is extremely effective when addressing human trafficking.

In response to a question from Senator Schroder, Ms. Hunt said big events bring in more people, which could spike numbers in human trafficking, but at the same time they bring increased law enforcement and a level of vigilance that is not there on a normal day.

There being no further business before the committee, the meeting was adjourned at 11:29 a.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Human Resources

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

August 27, 2015

**Call to Order and Roll Call**

The 3rd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 27, 2015, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Joni L. Jenkins, Co-Chair; Senators Carroll Gibson, Denise Harper Angel, Christian McDaniel, and Morgan McGarvey; Representatives George Brown Jr., Tom Burch, Bob M. DeWeese, Mary Lou Marzian, Donna Mayfield, Darryl T. Owens, David Watkins, and Addia Wuchner.

Guests: Neville Wise, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS); Carrie Banahan, Executive Director, Kentucky Health Benefit Exchange, CHFS; Nicole Comeaux, Deputy Director, Kentucky Health Benefit Exchange, CHFS; and Matthew Harrell, Managing Agent, Health Insurance Choice Centers.

LRC Staff: Cindy Murray, Jim Bondurant, and

Benjamin Thompson.

**Medicaid Managed Care Organization Medical Loss Ratios**

Mr. Neville Wise spoke on Medical Loss Ratios (MLRs) for Medicaid Managed Care Organizations (MCOs).

In response to questions from Sen. McDaniel, Mr. Wise stated that the total expenditures to MCOs was close to seven billion dollars. Mr. Wise noted that if any MCO falls below the 85 percent target for MLRs, part of the premium payments would be recouped and placed back into Medicaid funds.

In response to a question from Rep. Jenkins, Mr. Wise noted that Medicaid would likely need to continue with a $7 billion expenditure to MCOs in future years.

In response to a question from Rep. Wuchner, Mr. Wise confirmed that the $7 billion allocation was for 2015.

In response to a question from Rep. Watkins, Mr. Wise noted that MCOs are supposed to notify all providers if there is a change in subcontractors and inform them of where any claims should be sent.

In response to questions from Chair Alvarado, Mr. Wise confirmed that reviews on MLRs are done annually. Mr. Wise noted that Medicaid hires an actuary to review all numbers from the MCOs and an accounting firm to review the actuary's work in order to safeguard against false numbers from MCOs. Mr. Wise stated that funding for Graduate Medical Education has not changed on the non-managed care side.

**Health Benefit Exchange Options**

Ms. Carrie Banahan, Ms. Nicole Comeaux, and Mr. Matthew Harrell spoke on the differences between Kentucky's Health Benefit Exchange and the federal Health Benefit Exchange.

In response to questions from Chair Alvarado, Ms. Banahan noted that the state of Kentucky owns the hardware, software, and Intellectual Property of kynect. Ms. Banahan continued that although Kentucky owns the intellectual property of kynect, since it was paid for by the federal government, the state would be required to share with other states that request it. Ms. Comeaux confirmed that Kentucky could charge an administrative fee to run a regional Health Benefit Exchange for other states.

In response to a question from Rep. Marzian, Ms. Banahan noted that roughly one third of the expanded population is under the age of thirty five.

In response to a question from Rep. Jenkins, Ms. Banahan confirmed that there is funding in the Medicaid budget for continuing education and health literacy programs.

There being no further business before the subcommittee, the meeting was adjourned at 12:02 PM.

## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 549th Meeting

September 2, 2015

**Call to Order and Roll Call**

The 549th meeting of the Legislative Research Commission was held on Wednesday, September 2, 2015, at 10:00 AM, in Room 125 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

LRC Staff: Christy Glass

There being a quorum present, Senator Stivers called for a motion to approve the minutes of the August 12, 2015, meeting; accept and refer as indicated items A. through E. under Staff and Committee reports; refer prefiled bills and administrative regulations as indicated and approve items C. through E. under New Business; and accept and refer as indicated items 1. through 9. under Communications. The motion was made by Representative Stumbo and seconded by Representative Hoover. A roll call vote was taken, and the motion passed with 14 yes votes. The following items were approved, accepted, or referred.

The minutes of the August 12, 2015, meeting were approved.

STAFF AND COMMITTEE REPORTS

Information requests for August 2015.

Committee Activity Report for August 2015.

Reports of the Administrative Regulation Review Subcommittee meeting of August 11, 2015.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meeting of August 10, 2015.

Committee review of Executive Reorganization Order 2015-397 by the Interim Joint Committee on Health and Welfare during its meeting of August 19, 2015.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 38** (relating to sales and use tax) to **Appropriations and Revenue**; **BR 167** (relating to superintendent screening committee membership) and **BR 180** (relating to the commissioner of education) to **Education**; **BR 135** (relating to the solemnization of marriage), **BR 154** (related to marriage and making an appropriation therefor), and **BR 214** (relating to preserving the right of Kentuckians to own and use firearms) to **Judiciary**; **BR 72** (relating to licensing fees and making an appropriation therefor) to **Licensing and Occupations**; **BR 174** (relating to travel required for certain state employees prior to appointment), **BR 178** (proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers), and **BR 217** (relating to student assistants) to **State Government**; **BR 141** (designating the new downtown bridge on Interstate 65 in Jefferson County in honor of former Governor and United States Senator Wendell H. Ford) to **Transportation**.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **907 KAR 9:005** (Non-outpatient Level I and Level II psychiatric residential treatment facility service and coverage policies), **907 KAR 9:010** (Reimbursement for non-outpatient Level I and Level II psychiatric residential treatment facility services), **907 KAR 9:015** (Coverage provisions and requirements regarding outpatient services provided by Level I or Level II psychiatric residential treatment facilities), **907 KAR 9:020** (Reimbursement provisions and requirements regarding outpatient behavioral health services provided by Level I or Level II psychiatric residential treatment facilities), **907 KAR 10:014** (Outpatient hospital service coverage provisions and requirements), **907 KAR 10:016** (Coverage provisions and requirements regarding inpatient psychiatric hospital services), **907 KAR 15:080** (Coverage provisions and requirement regarding outpatient chemical dependency treatment center services) and **907 KAR 15:085** (Reimbursement provisions and requirements regarding outpatient chemical dependency treatment center services) to **Appropriations and Revenue**; **808 KAR 9:010** (Administration and enforcement of KRS 286.9-140 to ensure that check cashers do not violate the law against multiple transactions in excessive amounts by a customer), **808 KAR 12:020** (Claims of exemption), **808 KAR 12:021** (Licensing and registration), and **808 KAR 12:110** (Report of condition) to **Banking and Insurance**; **16 KAR 2:020** (Occupation-based career and technical education certification), **16 KAR 4:030** (Out-of-state educator preparation), **702 KAR 7:065** (Designation of agent to manage middle and high school interscholastic athletics), **704 KAR 3:303** (Required academic standards), and **705 KAR 4:041** (Work-based learning program standards) to **Education**; **902 KAR 20:160** (Chemical dependency treatment services and facility specifications), **902 KAR 20:320** (Level I and Level II psychiatric residential treatment facility operation and services), **902 KAR 115:010** (Water fluoridation for the protection of dental health), and **910 KAR 1:270** (Hart-Supported Living grant program) to **Health and Welfare**; **501 KAR 1:080** (Parole Board policies and procedures), and **501 KAR 6:270** (Probation and parole policies and procedures) to **Judiciary**; **803 KAR 2:180** (Recordkeeping; reporting; statistics), **803 KAR 2:200** (Confined spaces in construction), **803 KAR 2:250** (Discrimination), **803 KAR 2:305** (Powered platforms, manlifts, and vehicle-mounted work platforms), **803 KAR 2:317** (Special industries), **803 KAR 2:402** (General safety and health provisions), **803 KAR 2:421** (Adoption of 29 C.F.R. Part 1926.950-968), and **803 KAR 2:505** (Cranes and derricks in construction) to **Labor and Industry**; **201 KAR 30:070** (Grievances), **804 KAR 4:370** (Entertainment destination center license), **810 KAR 1:300** (International medication protocol as a condition of a race), **811 KAR 1:300** (International medication protocol as a condition of a race), and **811 KAR 2:300** (International medication protocol as a condition of a race) to **Licensing and Occupations**; **301 KAR 1:146** (Commercial fishing gear) to **Natural Resources and Environment**; **101 KAR 2:020** (Job classification plan), **101 KAR 2:046** (Applications, qualifications, and examinations), **101 KAR 2:056** (Registers) **101 KAR 2:066** (Certification and selection of eligible applicants for appointment), **101 KAR 2:120** (Incentive programs), **101 KAR 3:045** (Compensation plan and pay incentives) to **State**

**Government**.

From Becky Harilson and Steve Collins: Memorandum requesting approval of prefiling deadlines for the 2016 Regular Session.

From Laura H. Hendrix: Memorandum requesting approval of the 2016 Regular Session Calendar.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum correcting the expiration date of the appointment term to the Local Superintendents Advisory Council.

COMMUNICATIONS

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 Period 1 of BFY 2016, and year-to-date activity for the period of July 1, 2015, through July 31, 2015.

From the Kentucky Personnel Board: FY 2015 Annual Report.

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

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

From the Kentucky Department of Fish and Wildlife Resources: 2015 Report of the Status of Hunting Land Access in Kentucky.

From the Department of Military Affairs, Adjutant General Edward W. Tonini: Military Assistance Trust Fund State Fiscal Year 2015 Annual Report.

From the Finance and Administration Cabinet, Department of Revenue: FY 15 Disaster Relief Sales and Use Tax Refund Totals.

From the Cabinet for Health and Family Services: FY 14 Annual Report of the Kentucky Health Care Improvement Authority.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the City of Somerset.

Senator Stivers asked for a motion for the LRC to go into Executive Session for the purpose of discussion that may lead to the appointment of an individual to be employed under KRS 61.810(f), which is the position of the Legislative Research Commission Director. A motion was made by Representative Stumbo and seconded by Representative Richards to go into Executive session, and a voice vote was taken. At that time, the LRC went into Executive Session.

After returning from Executive Session, and there being no further business, the meeting was adjourned.

## PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

**2015 Interim**

August 13, 2015

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Thursday, August 13, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Legislative Guest: Representative Jim Gooch Jr.

Guests: Lisa Lee, Commissioner, Neville Wise, Deputy Commissioner, Department for Medicaid Services, and Tina Heavrin, General Counsel, Cabinet for Health and Family Services.

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

**Minutes for July 9, 2015**

Upon motion by Senator McDaniel and second by Senator Seum, the minutes for the July 9, 2015, meeting were approved by voice vote, without objection.

**Presentation on Kentucky Medicaid Managed Care**

Ms. Lee said that the Kentucky Medicaid Managed Care program was implemented on November 1, 2011. According to the contracts, each managed care organization (MCO) has to provide the same medically necessary services outlined in the Medicaid regulations. The MCOs do have flexibility regarding prior authorizations and payment to providers. MCOs can create value added services, such as a second dental cleaning, that will not be used as a factor in calculating their capitation payment in the future. MCOs do not serve members in long-term care facilities or in 1915(c) waivers.

After a competitive bidding process, in July 2015 contracts were signed between the Department for Medicaid Services (DMS) and five MCOs. These are the same five MCOs that were serving Medicaid members prior to the rebid; all five operate statewide.

Several contract changes were made based on feedback from providers. All MCOs now have identical contracts and a medical loss ratio requirement was imposed. All MCOs receive a per member, per month capitation payment from DMS for members assigned to them. The MCOs have to spend at least 85 percent of the capitation payments on services that directly benefit the member. If the MCOs do not meet the medical loss ratio requirement, the MCO must return a portion of the capitation payment to DMS. A risk corridor for the expansion population was mandated by the Centers for Medicare & Medicaid Services (CMS). This means that if the MCOs do not spend a certain percentage of the money they receive for the expansion population, they have to return that money to CMS. If they spend more money than they received, they will receive additional funds from CMS.

The new contracts also included new HEDIS [Healthcare Effectiveness Data and Information Set] incentive measures improve quality measures in the delivery of services. All MCOs must now use the same medically necessary criteria to determine if services meet "medical necessity" such as prior authorizations. DMS is working to provide by January 1, 2016 one form for members and providers to file an appeal with the MCOs. DMS is also working to provide one form by January 1, 2016 requesting prior authorization by the MCOs. All MCOs must now follow the National Committee for Quality Assurance standards when credentialing providers.

The new MCO contracts have increased access standards for behavioral health services. All MCOs must have at least half of their providers serving behavioral health needs in their networks in each region and a minimum number of such providers. In order for an MCO network to be counted as meeting access standards, their providers must accept Medicaid patients. MCOs must update their online provider networks within 10 days of adding or removing a provider. MCOs must be more aggressive in finding outpatient services for any individual discharged from a mental health hospital.

Additional contract changes include a strengthened penalty section and improved fraud recovery requirements. Oversight of services has been increased for denied claims due to medical necessity.

More than 1.1 million Medicaid members are enrolled in an MCO, 118,000 members are enrolled in the fee-for-service program. There are nearly 866,000 traditional Medicaid members, nearly 398,000 are expansion members who joined in January 2014. WellCare has the most members enrolled at nearly 400,000; Anthem has the least amount of members enrolled.

In 2011, there was one Medicaid MCO, and 80 percent of Medicaid members were enrolled in the fee-for-service program. In 2015, 90 percent of the Medicaid population was enrolled in a MCO. The 10 percent in the fee-for-service program account for 31 percent of the Medicaid budget.

In response to questions from Senator Carroll, Ms. Lee said that one way the cabinet has standardized the method for prior authorizations is to mandate that all MCOs must use the same software when determining whether to grant a prior authorization. The number of times a request for a prior authorization must be made for the same medical necessity differs depending on the situation. MCOs have different requirements for prior authorization decisions.

In response to questions from Senator McDaniel about the risk corridor, Ms. Lee said it will no longer be a factor when a 90/10 ratio is achieved. Mr. Wise noted that the risk corridor will no longer be a factor after January 2017. At that time, when an MCO spends over 100 percent, they will not be reimbursed.

In response to questions from Senator Buford, Mr. Wise said that DMS will learn in December 2015 whether a clawback amount will be received. If clawback funds are available, they will be returned to the federal government.

In response to a question from Senator Carroll, Ms. Lee said DMS does not intervene in individual cases in which an authorization based on medical necessity has been denied.

Senator Carroll described a case in which a MCO does not cover Quillivant, a drug used to treat ADHD. Ms. Lee said DMS is aware of this, has communicated with the MCO, and is monitoring the situation. She noted that she could talk with the provider.

Senator Carroll commented that the provider maintains that an alternative medication the MCO covers is less effective and that it may be that more claims are being denied in an effort to save money.

In response to questions from Senator Seum, Ms. Lee said forums are being set up at which providers and MCOs can communicate about problems such as late payments to providers. Penalties are now in place for improperly handled claims. Specific examples of problems are needed from individual providers.

In response to a follow-up question from Senator Seum, Ms. Lee said that the percentage of Kentucky's population enrolled in Medicaid is about the same as that of other states.

In response to a description by Senator Clark of a problem a provider is having with an MCO, Ms. Lee said DMS staff will talk with the provider concerning his questions.

In response to a question from Representative Palumbo, Ms. Lee said $2 billion has been spent since Medicaid managed care has been implemented, which creates jobs. Kentucky has one of the lowest unemployment rates.

Representative Mills and Senator Carroll complimented DMS on its prompt assistance with problems that arise with the MCOs.

Senator Carroll commented that decision-making is being taken away from local physicians and that dealing with the MCOs is still difficult. He would like to see DMS exercise more oversight for individual claims instead of leaving it to the MCOs.

In response to a question from Representative Couch, Ms. Lee said the Medicaid program continues to change and adapt even though private insurance for citizens not enrolled in Medicaid may be prohibitively expensive.

Representative Couch commented that government mandates may be one reason private insurance is as expensive as it is.

In response to a question from Representative Combs, Ms. Lee said $1.3 billion has been saved in the Medicaid budget by implementing managed care. MCOs allow for direct service between case workers and members that DMS does not have the staff to provide.

In response to a question from Senator McDaniel, Ms. Lee said substance abuse treatment has been a covered benefit since January 2014. The provider network for treatment has been expanded and all plans now cover behavioral health services.

In response to a question from Senator Buford, Ms. Lee said Medicaid now covers Nalaxone for those who have overdosed. Policies have been changed to ensure such patients also receive therapies.

Senator Clark said that these should be an examination of why legislation has not resulted as expected in the provision of CBD Oil for children with epilepsy and autism.

The meeting adjourned at 11:00 AM.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

**Minutes of the August Meeting**

August 11, 2015

**Call to Order and Roll Call**

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 11, 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; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams, and Perry B. Clark; Representatives Denver Butler, and Tommy Turner.

Guests: Jimmy Adams, Education Professional Standards Board; Dinah Bevington, Personnel Cabinet; Nicole Biddle, Larry Disney, Tom Veit, Real Estate Appraisers Board; Ron Brooks, Karen Waldrop, David Wicker, Department of Fish and Wildlife Resources; Tim Arnold, John Cummings, Department for Public Advocacy; Amy Barker, Cindy Huddleston, Department of Corrections; Chase Bannister, Kevin Brown, Department of Education; Chad Collins, Julian Tackett, KY High School Athletic Association; Todd Allen, Amanda Ellis, Leslie Slaughter, Dale Winkler, Department of Education; Mike Pettit, Kristi Redmon, Chip Smith, Chuck Stribling, Labor Cabinet; Frederick Higdon, Steve Humphress, Melissa McQueen, Alcoholic Beverage Control; John Allender, Tammy Scruggs, Jessica Sharpe, Charles Vice, Department for Financial Institutions; William Farmer, Marc Guilfoil, Richard Sams, Susan Speckert, John Ward, Horse Racing Commission; Stephanie Bramer-Barnes, Maryellen Mynear, Office of Inspector General; Laura Begin, Julie McKee, Department for Public Health; Leslie Hoffman, Stuart Owen, Department for Medicaid Services; David Allgood, Jennifer Dudinskie, Victoria Elridge, Department for Aging and Independent Living; Ben Bealmear DMV, Peter Echbert, Rick Hiles, Martin Maline, National Horseman's Benevolent and Protective Association; WB Rogers Beasley, Keeneland.

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

The Administrative Regulation Review Subcommittee met on Tuesday, August 11, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Board

16 KAR 2:020. Occupation-based career and technical education certification. Jimmy Adams, acting executive director, represented the board.

In response to a question by Senator Clark, Mr. Adams stated that the character and fitness form was required each five (5) years to maintain licensure. The form disclosed violations or criminal behavior and would be used by the board if necessary to determine the appropriateness of continued licensure.

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, 2, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

16 KAR 4:030. Out-of-state educator preparation.

In response to a question by Co-Chair Harris, Mr. Adams stated that this administrative regulation synchronized out-of-state educator preparation programs to the equivalent in-state programs.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to: (1) clarify requirements; 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.

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:020. Job classification plan. Dinah Bevington, general counsel, represented the cabinet.

101 KAR 2:046. Applications, qualifications, and examinations.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 6, 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.

101 KAR 2:056. Registers.

101 KAR 2:066. Certification and selection of eligible applicants for appointment.

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

101 KAR 2:120. Incentive programs.

101 KAR 3:045. Compensation plan and pay incentives.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and Sections 2 through 5, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend the STATUTORY AUTHORITY paragraph to add a citation. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Real Estate Appraisers Board: Board

201 KAR 30:070. Grievances. Nicole Biddle, staff attorney; Larry Disney, executive director; and Tom Veit, executive assistant, represented the board.

In response to a question by Co-Chair Harris, Mr. Disney stated that the board historically investigated all grievances, including those submitted anonymously. The board had previously agreed to cease investigating anonymous grievances, but the federal Frank – Dodd Act required the board to continue investigating all grievances, including those submitted anonymously. This administrative regulation addressed anonymous grievances.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify that a grievance that is filed anonymously shall still be investigated; and (2) to amend Sections 3 and 5 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 1:146. Commercial fishing gear. Ron Brooks, fisheries director; Dr. Karen Waldrop, deputy commissioner; and David Wicker, general counsel, represented the department.

In response to a question by Co-Chair Harris, Mr. Brooks stated that a rough fish was any fish not already classified as a sport fish.

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

501 KAR 6:270. Probation and parole policies and procedures. Amy Barker, assistant general counsel, and Cindy Huddleston, probation and parole officer, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that this administrative regulation realigned requirements with recent technological advances.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics. Kevin Brown, associate commissioner and department general counsel, represented the board. Chad Collins, general counsel, and Julian Tackett, commissioner, represented the Kentucky High School Athletic Association.

In response to a question by Senator Raque Adams, Mr. Tackett stated that drones were being marketed for use at high school athletic events; however, the Federal Aviation Administration did not yet allow that. Kentucky had several incidents and accidents regarding drones at high school athletic events. Individual schools determined if drones were used during practice, and the Kentucky High School Athletic Association recommended that drones not be used during practice.

In response to a question by Co-Chair Marzian, Mr. Tackett stated that drones were being marketed for coaching purposes in order to capture activity from different angles.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 5 and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Instruction

704 KAR 3:303. Required academic standards. Todd Allen, assistant general counsel; Kevin Brown, associate commissioner and department general counsel; and Amanda Ellis, associate commissioner, represented the department.

In response to a question by Senator Clark, Ms. Ellis stated that the department was replacing the Kentucky Core Academic Standards for Arts and Humanities to broaden the program, create a more age-appropriate curriculum, and establish a more performance-based program. Senator Clark stated that he supported the arts.

Instructional Programs

705 KAR 4:041. Work-based learning program standards. Chase Bannister, staff attorney; Kevin Brown, associate commissioner and department general counsel; and Leslie Slaughter, policy advisor, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend the RELATES TO paragraph and 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.

LABOR CABINET: Department for Workplace Standards: Division of Occupational Safety and Health Compliance: Division of Occupational Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:180. Recordkeeping; reporting; statistics. Mike Pettit, standards specialist; Kristi Redmon, standards specialist; and Chip Smith, general counsel, represented the division.

In response to questions by Co-Chair Harris, Ms. Redmon stated that the federal Occupational Health and Safety Administration initiated these changes, and the division was required to update these administrative regulations accordingly. Mr. Smith stated that the most substantive changes were to the discrimination provisions, which protect an employee from retaliation related to a complaint pertaining to occupational safety or health. A recent Court of Appeals decision determined that Kentucky's standards were not protective enough; therefore, 803 KAR 2:250 was amended to address those concerns and ensure protection from retaliation.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to make punctuation corrections; (2) to amend the RELATES TO paragraph to add 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; and (4) 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.

803 KAR 2:200. Confined spaces in construction.

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

803 KAR 2:250. Discrimination.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 5, 6, 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.

803 KAR 2:305. Powered platforms, manlifts, and vehicle-mounted work platforms.

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

803 KAR 2:317. Special industries.

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 Section 2 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 1 to add a definition for "employer" for consistency with the other administrative regulations in this package. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 2:402. General safety and health provisions.

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

803 KAR 2:421. Adoption of 29 C.F.R. Part 1926.950-968.

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

803 KAR 2:505. Cranes and derricks in construction.

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.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:370. Entertainment destination center license. Frederick Higdon, commissioner;

Steve Humphress, general counsel; and Melissa McQueen, staff attorney, represented the department.

In response to questions by Co-Chair Harris, Mr. Humphress stated that this administrative regulation was first initiated in anticipation of Fourth Street Live! This administrative regulation allowed comingling of alcoholic beverages during events within certain parameters. The department was relaxing the parameter requirements so that other venues, such as the Newport Levee, could participate. This administrative regulation could apply to craft breweries, but those breweries were also subject to other requirements established in other administrative regulations.

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

Department of Financial Institutions: Division of Non-Depository Institutions: Check Cashing

808 KAR 9:010. Administration and enforcement of KRS 286.9-140 to ensure that check cashers do not violate the law against multiple transactions in excessive amounts by a customer. John Allender, staff attorney, and Charles Vice, commissioner, represented the division.

In response to a question by Co-Chair Harris, Mr. Vice stated that this administrative regulation clarified requirements regarding when transactions for payday loans were considered closed.

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; Section 1; the material incorporated by reference; and the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT 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 Section 1 to add the requirement that the applications for a non-profit exemption and for a HUD exemption be notarized; and (4) to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:020. Claims of exemption.

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 correct a citation and 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 correct a citation and add the requirement that the applications for a Non-Profit exemption and for a HUD exemption be notarized; (4) to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (5) to amend the REGULATORY IMPACT ANALYSIS and the application for a Non-Profit exemption to correct a citation. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 12:021. Licensing and registration.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 5 and Section 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 3 to add the statutory citation that covers the commissioner's authority to require a background check; and (3) to amend Section 5 to: (a) clarify that the credit report score demonstrates the requirement of "financial responsibility" by the applicant; and (b) add what factors are used in the board's determination of "character" and "general fitness". Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 12:110. Report of condition.

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 Section 1 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: Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:160. Chemical dependency treatment services and facility specifications. Stephanie Brammer–Barnes, regulation coordinator, and Maryellen Mynear, inspector general, represented the division.

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

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

In response to a question by Senator Clark, Ms. Brammer–Barnes stated that House Bill 92 of the 2015 Regular Session of the General Assembly authorized licensed clinical alcohol and drug counselors and licensed clinical alcohol and drug counselor associates to offer alcohol and drug counseling services.

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 7(7)(h) to clarify requirements; and (3) to amend Sections 1 and 14 to add "licensed clinical alcohol and drug counselor" and "licensed clinical alcohol and drug counselor associate". Without objection, and with agreement of the agency, these amendments were approved.

Division of Maternal and Child Health: Water Fluoridation

902 KAR 115:010. Water fluoridation for the protection of dental health. Laura Begin, regulation coordinator, and Dr. Julie McKee, state dental director, represented the division.

In response to a question by Senator Clark, Dr. McKee stated that this administrative regulation was commensurate with federal recommendations regarding fluoridation of public water supplies.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 2 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 Community Alternatives: Psychiatric Residential Treatment Facility Services and Reimbursement

907 KAR 9:005. Non-outpatient Level I and Level II psychiatric residential treatment facility service and coverage policies. Leslie Hoffman, policy advisor, and Stuart Owen, regulation coordinator, represented the department.

In response to a question by Senator Clark, Mr. Owen stated that an emergency administrative regulation regarding licensure of licensed clinical alcohol and drug counselors and associates had been submitted to the governor's office by the licensure board and it was expected to be filed soon. The licensure of those individuals would impact these Medicaid administrative regulations and 902 KAR 20:160 and 20:320.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to revise the definition of: (a) "behavioral health professional" to add a certified alcohol and drug counselor; and (b) "interdisciplinary team" to include a parent, legal guardian, or caregiver of a recipient if requested by the recipient over age eighteen (18); and (2) to amend Sections 1, 2, 4, 6, 7, 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.

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

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

907 KAR 9:015. Coverage provisions and requirements regarding outpatient services provided by Level I or Level II psychiatric residential treatment facilities.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 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.

907 KAR 9:020. Reimbursement provisions and requirements regarding outpatient behavioral health services provided by Level I or Level II psychiatric residential treatment facilities.

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

Hospital Service Coverage and Reimbursement

907 KAR 10:014. Outpatient hospital service coverage provisions and requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 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.

907 KAR 10:016. Coverage provisions and requirements regarding inpatient psychiatric hospital services.

A motion was made and seconded to approve the following amendments: (1) to amend the definition of "interdisciplinary team" to include a parent, legal guardian, or caregiver of a recipient if requested by the recipient over age eighteen (18); and (2) to amend Sections 2 through 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.

Behavioral Health

907 KAR 15:080. Coverage provisions and requirement regarding outpatient chemical dependency treatment center services.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, 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 15:085. Reimbursement provisions and requirements regarding outpatient chemical dependency treatment center services.

Department for Aging and Independent Living: Division of Quality Living: Aging Services

910 KAR 1:270. Hart-Supported Living grant program. David Allgood, chair, Hart Support Living Council; Jennifer Dudinskie, branch manager; and Victoria Elridge, deputy commissioner, represented the division.

In response to questions by Senator Clark, Ms. Elridge stated that there were currently 408 program participants. Participants had until 2018 to come into compliance with the new guidelines, and there were exceptions that allowed the division to examine the totality of a financial statement. Once this administrative regulation was finalized, the council voted unanimously to approve it.

In response to questions by Co-Chair Harris, Ms. Dudinskie stated that most participants lived at home, and this program helped to keep those participants involved in community life. Mr. Allgood stated that these funds primarily helped provide attending care. Other expenditures involved, for example, access ramp construction and bathroom remodeling for access. Expenditures could therefore be ongoing or one (1) time.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 5, 7, and 9 to update citations; (2) to amend Sections 1 and 3 to reference defined terms; (3) to amend Section 1 to: (a) add definitions for "federal poverty guidelines" and "operating agency"; and (b) clarify that personal care services shall be limited to recipients who are at least twelve (12) years old; (4) to amend Sections 3 and 15 and the renewal application form to clarify application procedures; and (5) to amend Sections 1, 4, 5, 7, 8, 9, and 13 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 September 8, 2015, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Imaging and Radiation Therapy: Board

201 KAR 46:010. Definitions for 201 KAR Chapter 46.

201 KAR 46:020. Fees.

201 KAR 46:030. Education for medical imaging technologists, advanced imaging professionals and radiation therapists.

201 KAR 46:040. Medical imaging technologist, advanced imaging professional and radiation therapist licenses.

201 KAR 46:045. Temporary license application for medical imaging technologists, advanced imaging professionals, and radiation therapists.

201 KAR 46:050. Provisional training license for medical imaging technologists and radiation therapists.

201 KAR 46:060. Continuing education requirements.

201 KAR 46:070. Violations and enforcement.

201 KAR 46:081. Limited x-ray machine operator.

JUSTICE AND PUBLIC SAFETY CABINET: Parole Board: Board

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

In response to a question by Representative Butler, Mr. Cummings stated that the board agreed to defer consideration of this administrative regulation to the September meeting of the Subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

TRANSPORTATION CABINET: Department of Highways: Division of Maintenance: Traffic

603 KAR 5:155. Removal and pruning of vegetation.

Billboards

603 KAR 10:002. Definitions for 603 KAR Chapter 10.

603 KAR 10:010. Static advertising devices.

603 KAR 10:021. Electronic advertising devices.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Thoroughbred Racing

810 KAR 1:300. International medication protocol as a condition of a race. Marc Guilfoil, director of racing; Susan Speckert, general counsel; and John Warn, executive director of racing, represented the commission. Dr. Ben Bealmear, veterinarian, North American Association of Racetrack Veterinarians; Peter Ecabert, general counsel, National Horsemen's Benevolent and Protective Association; Rick Hiles, president, Kentucky Horsemen's Benevolent and Protective Association; and Martin Maline, executive director, Kentucky Horsemen's Benevolent and Protective Association, appeared in opposition to these administrative regulations. W. B. Rogers Beasley, director of racing, Keeneland, appeared in support of these administrative regulations.

In response to a question by Co-Chair Marzian, staff stated that, if deferred, an entire administrative regulation was deferred, not just a portion. If these administrative regulations were deferred, they would be tentatively placed on the September 8 Subcommittee agenda.

In response to a question by Co-Chair Marzian, Mr. Warn stated that some horse owners wanted to be able to race without using furosemide. In order to ensure the fairness of a race, all horses in a race without furosemide needed to be furosemide free. Furosemide, while used to prevent pulmonary bleeding was a diuretic and caused a fourteen (14) to fifteen (15) pound difference; therefore, a horse racing with furosemide but racing against a horse or horses without furosemide had an unfair advantage.

In response to a question by Co-Chair Harris, Mr. Warn stated that furosemide was used during training and on race day to protect horses from pulmonary bleeding. Horse owners were not prohibited from using it and were not required to use it.

In response to a question by Representative Butler, Mr. Warn stated that a horse owner was no longer required to submit a veterinarian's certification of a medical necessity for the use of furosemide.

Mr. Hiles stated that furosemide protected horses by preventing bleeding. A horse, once having had a bleeding event, was more likely to bleed again and to have other negative health consequences. Furosemide was not usually used in training, except with a horse with a previous incidence of bleeding. The Jockey Club did a study in South Africa, the purpose of which was to discredit furosemide. The study instead proved that furosemide was very beneficial to prevent a horse from bleeding. Jockeys were also protected from potential accidents and injuries because the horses were protected from bleeding. With these administrative regulations, the commission had delegated its authority to a third party, by allowing tracks to determine if a nonfurosemide race would take place. The commission did not have the authority to delegate this control.

Mr. Ecabert stated that by allowing a track to determine if a nonfurosemide race would take place, the track, not the commission, was making contestants subject to violations and sanctions. The commission did not have the authority to delegate that authority. These administrative regulations violated the Fourteenth Amendment to the United States Constitution and violated the Kentucky

Constitution's equal protection provisions.

Mr. Bealmear stated that Colorado had incentivized racing without furosemide. On June 20, 2015, the horse, Aces Away, finished third in a nonfurosemide race. After racing, Aces Away collapsed and died. The autopsy results had yet to be released. He stated his desire to have consideration of these administrative regulations postponed until the autopsy results are released so that, if bleeding was the cause of the death of Aces Away, that information could be used in consideration of these administrative regulations.

In response to a question by Co-Chair Harris, Mr. Hiles stated that most horses were medicated with furosemide on race days, either for actual bleeding or as a bleeding preventative.

In response to a question by Senator Raque Adams, Mr. Hiles stated that the Equine Drug Research Council failed to approve the concept of nonfurosemide races; therefore, the commission decided to pursue the concept on its own. The Kentucky Horsemen's Benevolent and Protective Association was opposed to this concept from its inception. Mr. Ecabert stated that the commission did not allow the Equine Drug Research Council to have input in the commission's policies, including increased drug threshold levels.

In response to questions by Co-Chair Marzian, Mr. Hiles stated that furosemide was legal for use in all states of the United States. It was also legal in Europe, with the exception of the actual race day. The Kentucky Horsemen's Benevolent and Protective Association had only heard from one (1) track that supported these administrative regulations. A typical horse weighed between 1,000 and 1,200 pounds. Furosemide was not a performance enhancer, but a performance enabler, which protected a horse and allowed a horse to run at its natural best. Mr. Maline stated that European horse owners did usually use furosemide on race day if racing in the United States. There was a concern that horse owners opposed to the policies may take their horses away from Kentucky to other states.

In response to questions by Senator Clark, Mr. Hiles stated that, if a horse bleeds, there is often downtime from racing and veterinarian bills for the owner. There were potential penalties related to racing a horse that has experienced multiple bleeding episodes. Currently, only the commission was authorized to establish a nonfurosemide race. These administrative regulations would delegate that authority to the tracks themselves. Mr. Maline stated that there were also disadvantages to the betting public because a given horse may run differently if not using furosemide than it would in other races in which it is administered furosemide.

Mr. Beasley stated that Keeneland supported these administrative regulations because these administrative regulations offered opportunity for the equine industry. The history of Kentucky horse racing was a history of increased opportunity. These administrative regulations would allow for nonfurosemide races for those owners who wanted to participate.

In response to a question by Senator Raque Adams, Mr. Beasley stated that each racetrack would be able to determine whether to establish nonfurosemide races. These administrative regulations, as it pertains to nonfurosemide races, were permissive, not mandatory.

Co-Chair Marzian stated that she would like for the Subcommittee to hear from some of the other track representatives when these administrative regulations came back before the Subcommittee for consideration.

Co-Chair Harris stated that he would like the commission to consult with the Attorney General regarding the delegation of authority to establish nonfurosemide races to the tracks.

A motion was made and seconded to defer consideration of these administrative regulations to the September 8 meeting of the Subcommittee. Without objection, and with agreement of the agency, the deferrals were approved.

Harness Racing

811 KAR 1:300. International medication protocol as a condition of a race.

Quarter Horse, Appaloosa and Arabian Racing

811 KAR 2:300. International medication protocol as a condition of a race.

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

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

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

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

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

Division of Policy and Operations: Medicaid Services

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

Division of Community Alternatives: Hospital Service Coverage and Reimbursement

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

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

The Subcommittee adjourned at 2:25 p.m. until September 8, 2015, at 1 p.m.

## SB 192 IMPLEMENTATION OVERSIGHT COMMITTEE

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

August 10, 2015

**Call to Order and Roll Call**

The 3rd meeting of the SB 192 Implementation Oversight Committee was held on Monday, August 10, 2015, at 10:00 AM, at the University of Kentucky HealthCare Albert B. Chandler Hospital, Pavilion A Auditorium in Lexington, Kentucky. Representative Denver Butler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Denver Butler, Co-Chair; Senators Morgan McGarvey and Whitney Westerfield; Representatives Joni L. Jenkins, and John Tilley.

Guests: Lisa Lee, Department for Medicaid Services; Mary Burnette, Independence House; Stephanie Barnett and Kate Barnett, Choosewell Communities; Kevin Pangburn, Desi Brooks, Kirstie Willard, Paula Hellard, Kentucky Department of Corrections; Barry Brady, Marion County Department of Corrections; Jim Thaxdon, HIRT; Sharon Perkins, Kentucky Hospital Association; Mark Bolton, Louisville Metro Corrections; Jason Halligan, Harvard Kennedy School Social Impact Bond Lab; Tracy Burch, Ashel Kruzenkamp, and Stacie Nance, St. Elizabeth Healthcare; Dr. Paul Kensick, WellCare, Jim Beiting, Transitions, Inc.; Diana Frankenburgers, UK Childbirth Education Coordinator; Kristi Lopez, UK Public Relations; Core Burckman, SAS, Laurie Conkright, St. Elizabeth Healthcare; Anne Peak, KIPDA; J. Michael Brown, Justice and Public Safety Cabinet; Mark Mangeot, Kentucky Department of Corrections; Paula Chipko, Strategy UK; Steve Shannon, KARP; and G. Scott Colvin, Deputy Chief, Lexington-Fayette Detention Center.

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

The Minutes of the July 13, 2015 meeting were approved without objection.

**Pre-Natal/Post-Partum Substance Use Treatment and Neonatal Abstinence Syndrome (NAS)**

Dawn Forbes, MD, MS, FAAP, Neonatologist, Kosair Children's Hospital, Neonatal Specialists Founder and Director HARPS, (Helping At-Risk Pregnancies Succeed)/Effects, Inc., Lon R. Hays, MD, MBA, Chair, Department of Psychiatry, UK HealthCare, Henrietta S. Bada, MD, MPH, Professor, Department of Pediatrics, Vice Chair, Academic Affairs, UK College of Medicine, Professor, Department of Health Behavior, UK College of Public Health, and Mary Burnett, MA, CADC, CSS, Director & Clinical Services Supervisor, Independence House Corbin, spoke on substance use treatment and NAS.

Dr. Forbes' presentation discussed opportunities to improve outcomes for infants and families that are affected by addiction. She said that health care providers and legislators have an obligation to provide short-term and immediate solutions for the families and to focus on long-term sustainable solutions that will decrease the incidence of this reoccurring in future generations. The three things she has focused on are: (1) decreasing the incidence of adverse childhood events (ACE) for infants and children; (2) improving fetal and newborn care and decreasing costs, lengths of stay, and opiate exposure for infants at risk for neonatal abstinence syndrome (NAS); and (3) improving access to and utilization of existing programs and services. As infants are exposed to abuse, neglect, and household dysfunction of which substance abuse is one of those dysfunctions, then these infants are affected emotionally, cognitively, and are at risk of having long-term adverse outcomes. ACE scores greater than 2 are the beginning of the high-risk population. Nationally, 12 percent of children have ACE scores that are two or greater. In Kentucky, 20 percent of children have ACE scores greater than two. Kids that are proven to have been exposed to abuse cost the state $65,000 per child annually. That relates to about $37 billion annually across all the children.

In 2001, HARPS began putting together a comprehensive program with three core concepts: (1) early intervention; (2) education; and (3) family-centered care. This was done through a multi-model longitudinal approach by intervening with mothers early in the pregnancy and following the children through their first three years of life, supplemented with long-term developmental follow-up. In addition to this approach, they also have multiple on-going NAS projects and they have a huge NAS multi-centered data base.

HARPS has put together a program in three hospitals. Since 2012 when the average length of stay of NAS babies was 45 days, it is now down to under 13 days at the hospital that is fully integrated, and that number has been sustained for 18 months. This has been a continuum of improved care over the past four years. Dr. Forbes said there are two more challenges to overcome. One is how to share the experience and the evidence-based knowledge to make that hospital's success more widely available. HARPS is actively moving forward with that and packaging the care model so it can be distributed more widely. The second challenge is to continue to reduce the exposure to adverse events beyond the first four months of life.

HARPS has been able to partner with ChooseWell Communities, a program focused on working with and improving the outcomes of women-led families in recovery. This is done in collaboration with other resources by providing a supportive community made up of volunteers who have expertise in the areas that these families need as they are dealing with being a new mom and being newly sober. The program uses care managers to coordinate a health plan and focus for these families. It also utilizes peer coaches who are paired with other women who have already navigated the system. Putting this all together, ChooseWell has targeted outcomes.

Dr. Forbes said that, for the future of the families, she encouraged the legislators to challenge programs to anticipate and address barriers to access. She believes programs that commit to prevent/reduce incidence of ACEs, reward collaboration, and break the cycle of addiction should be a legislative priority.

In response to a question by Senator Westerfield, Dr. Forbes said slots for women and their children in Kentucky to get help and resources are very limited. There are very few programs that will specifically take in pregnant women who also suffer from addiction. Senator Westerfield said he believes there are only three facilities statewide that offer these services, and they are maxed out.

In response to a question by Senator Westerfield, Dr. Forbes said they see over 600 women per year delivering infants and that is a very small part of the population. Over 1,000 women in her community are pregnant and suffering from addiction.

In response to a question by Senator Westerfield, Dr. Forbes said the barriers that are found at certain hospitals against the program are at an administration level, not at the nursing level.

In response to a question by Representative Butler, Dr. Forbes said infants in the programs are monitored for years after their length of stay in the hospital.

In response to a question by Representative Jenkins, Dr. Forbes said opiate exposure is a huge problem and has reasonably good protocols. There is systematic support and some medicines can be beneficial. Infants exposed to cocaine or SSRIs or marijuana or amphetamines do not have great treatment protocols. The next area her practice will be working on is how to address the more common poly-substance exposure. Dr. Forbes said that alcohol is a completely different topic. Alcohol disturbs fetal development in the first trimester. These infants are born with many birth defects and fetal alcohol syndrome.

In response to a question by Senator McDaniel, Dr. Forbes said there is not a lot of data relative to the impact of opiate exposure. It is hard to look at developmental outcomes because it is so convoluted. The infant is exposed to opiates in utero but that is not where the exposure stops. The infants go to homes that are dysfunctional and broken with continued opiate exposure and risk factors. So it is hard to tease out what the actual in utero exposure is compared to what the home environment impact is.

Dr. Hays discussed the history of treatment of opioid dependent pregnant women on UK inpatient psychiatric service. In the early 1990s, these women were admitted and treated with methadone, maintained on methadone, and placed into a methadone maintenance program until delivery. Within two years it was realized that this treatment of maintaining women on methadone was breaking the bank. The entire budget for the program was used within the first two months of the year. From that point forward, Dr. Hays and his group took the option to detox some women if it was appropriate. They looked at each case individually. It was obvious that treatment was necessary but methadone maintenance was not. Each would come through OB triage before they were admitted to their service. More often than not they are then admitted to the psychiatry service. The options for treatment are either (1) methadone stabilization followed by maintenance; (2) methadone stabilization followed by detox; or (3) Subutex treatment. The factors involved in treatment decision are (1) patient choice; proximity to a methadone maintenance program; or (3) availability of Subutex providers. He added that the ideal time for detox is during the second trimester. The average length of detox stay is 5-7 days, but can be longer due to availability of a follow-up. The number of women treated in the program is greater than 600. The current breakdown is 75 percent detox, and 25 percent medication assisted treatment, which is largely dictated by proximity to other forms of treatment. He believes the ideal situation would be inpatient treatment followed by residential treatment such as Shwartz Center/Independence House or a Subutex provider with OB experience. New issues being seen include an increase in cases of Hepatitis C. He hopes to see more coordinated follow-up and increased use of Subutex with qualified providers.

In response to a question by Representative Tilley, Dr. Hays said they frequently see patients that are HIV positive. The number of cases are increasing, but much slower than what is being seen with Hepatitis C.

Dr. Bada said that NAS will not disappear and will only increase or evolve from different opioid formulation. Since 2000 there has been a 48-fold increase in babies born with NAS in Kentucky. There are 2-3 babies per day that have NAS, and approximately 27 babies a week with NAS. Infants born exposed to opiates have low birthweight, have smaller heads, could have congenital malformations, abnormal tone may persist, seizures and abnormal EEG patterns and abnormal sleep patterns, and also have signs of withdrawal. The summary of long-term outcomes include psychomotor delay in the first two years, lower IQ scores, poor language development, and behavior and school problems.

She said interventions and outcomes should consider the balance between cumulative risk and protective index. Kids with high risk and low protective factors have behavioral problems that continue to rise between the ages of 5 to 15. To help these children, the adverse childhood experiences have to be diminished and the protective factors in the household have to be increased. Child outcomes can be changed if protective factors are increased and drug use and other risks are decreased.

Dr. Hays said the ideal treatment is residential treatment for mothers and infants together. The alternate is intensive outpatient program that focuses on the transition from pregnancy, including medicine-assisted treatment/detox, counseling, peer support, monitoring of drug use, and parenting skills.

She concluded by saying that it take a village to disentangle the world of the drug-exposed child.

In response to a comment by Dr. Bada, Senator McDaniel said the environment around the children is very important. If there is a good environment and the mothers are treated, then there will be a better outcome. It is a nature versus nurture issue.

In response to a question by Senator Westerfield, Dr. Bada said the standardized approach starts with inpatient treatment of the baby and training of the nurses who are scoring the infant because they increase or discontinue treatment based on the baby's assessment. There has to be uniformity with how things are done.

In response to a question by Senator Westerfield, Dr. Bada said that, upon discharge, babies are left to the care providers, but the program continues case management because the babies will still be seen.

Mary Burnett shared information she has gained from over 30 years of working with addicted women. She said in 1987 there were only two women in a coed treatment as opposed to 20 men, and the primary substance abused was alcohol. Today they have at least 1000 calls per year from women seeking help. The primary drugs have changed. Her program houses pregnant women that are addicted. They send all the pregnant women to detox if they need it, depending on what they have been using. She stressed that one size does not fit all and there are many answers that could work. Her program does not do medicine assisted treatment, just abstinence at this time. When the babies are born drug free, they are kept in the house for 30 days and the mothers stay the entire time as well. The mothers need to learn skills and their behaviors need to change to not have a relapse. The biggest issue when women leave the facility is continued care and a place to go.

In response to a question by Representative Butler, Ms. Burnett said they have fifteen beds for mothers and children and they are currently full. Pregnant women have priority for a bed.

In response to a question by Senator McDaniel, Ms. Burnett said suboxone strips need to be controlled somehow. Her facility is seeing a big problem with people coming in with suboxone being their drug of choice.

**Medicaid Coverage for Substance Use Treatment**

Lisa Lee, Commissioner, Department for Medicaid Services, and Dr. Allen Brenzel, Medical Director, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, spoke regarding Medicaid coverage for substance use treatment. Dr. Lee said that 93 percent of the populations that need treatment are enrolled in the Medicaid program, which makes Medicaid a vital player in the tangled web. Prior to the Affordable Care Act (ACA), coverage for pregnant women was limited to those individuals under 185 percent of the federal poverty level. Previously, in order to enroll in Medicaid, the individual had to be either pregnant, disabled, blind, or an adult 65 or older. If an individual is pregnant with one child, she is considered a family of two because poverty levels are based on the number of individuals in the family. The income limit for a family of 2 in 2015 was $2,589 per month. After delivery, she would no longer be in one of those eligible categories, so her coverage for Medicaid would end after the 60 day post-partum period. Today the options after the 60 day post-partum are traditional Medicaid, Medicaid expansion, or coverage through Kynect. Approximately 79 percent of pregnant women re-enter Medicaid after delivery.

Dr. Brenzel said the cabinet is working to coordinate all the services that are available. The costs are staggering, and the most appropriate services need to be offered to the women that are seeking service. The best treatment programs provide a combination of therapies and other services to meet the needs of the individual patient. He noted that the cabinet does focus on how the women are cared for after delivery. That time is a high risk time for the mom to overdose if she resumes use. The infant is at high risk of abuse and neglect and cumulative adverse child events. So, continued care is important.

Dr. Brenzel said he is working the Justice Cabinet and the Cabinet for Health and Family Services to allocate the approved funding from SB 192 that will address neonatal abstinence and services. He also mentioned that the Department for Behavioral Health is working with the Department for Public Health on a $3 million grant to provide better coordination of services in the Cumberland area and the Bluegrass region of Kentucky.

In response to a question by Senator McDaniel, Dr. Brenzel said when writing the grant, they looked at where specific federal incentives could be used most effectively, so the grant targets the Cumberland and Bluegrass regions. The benefits of this grant can be incorporated into the whole system.

Representative Jenkins wanted the committee to be aware of the Department for Community Bases Services' START Program, which is in various parts of the state. The program helps families at risk of child removal because of substance abuse. Rep. Jenkins said it is very cost effective and underfunded. This is an opportunity where Kentucky could get the most bang for the buck.

**Treatment for Jail Inmates**

Rodney Ballard, Director of Community Corrections, Fayette County, Mark Bolton, Director, Metro Corrections, Jefferson County, and Barry Brady, Jailer, Marion County, testified about treatment for jail inmates.

Mr. Bolton talked specifically about the Louisville jail, the biggest jail in Kentucky. The jail has 1,793 beds and processes about 36,000 people per year. The average daily population is about 1,850 inmates. The jail actively detoxes between 50 and 100 inmates every day. In 2014, about 6,200 people went through detox. Of those, 4,400 were for opiates, with almost 2,800 for heroin. The heroin numbers are on the rise. Over 1,000 of those people were detoxed multiple times over the year. Up to 20 people per day are released who have not been in jail long enough to complete detox. People coming in for low level offenses are released without detox, even if they are heroin users. The biggest challenge in Louisville is the lack of detox capacity in the community.

In response to a question by Senator Westerfield, Mr. Bolton said the individuals they are most challenged by are the individuals they do not have long enough to detox. The jail is not built or staffed to be a detox center. In terms of individuals being released daily, a strong majority of them need substance abuse treatment.

In response to a question by Senator Westerfield, Mr. Bolton said in the local Circuit Courts have just developed a heroin rocket docket which they believe will see some positive results. Individuals in jail long enough are put into a treatment program in the jail and they are then able to develop discharge planning with those individuals to continue treatment in the community.

Mr. Ballard discussed what he believes a treatment model should look like from a jail perspective. He said there should be a safe, medically-assisted detoxing system. Many of the inmates have co-occurring disorders. Finding adequate treatment facilities that will address all those needs can be difficult. There also needs to be a continuity of care when being released from jails. The goal should be to seek a continuity of care both inside and outside correctional facilities. This will take collaboration with local facilities and local treatment centers. The treatment providers used to detox inmates from their early release could also accept individuals from the general public seeking safe detoxing. Jails should assist inmates to enroll in the Affordable Care Act before they are released from custody.

Mr. Brady said that since January, 2015, the Marion County Jail has seen 615 drug charges. If they go into detox, there are 175 beds in Jefferson County, down to 16 beds in Hardin County. Priority for those beds still consist of the individual being suicidal, homicidal, IV drug user, or pregnant, to get to the front of the line for detox. There are 19,720 jail beds in Kentucky, with 9,322 prisoners, and the rest are detainees. In regard to treatment in Kentucky jails, there are 1,264 in some type of treatment bed. There are other very beneficial programs, including cogitative training that does not replace substance abuse treatment, but could go along with it. In his facility there are 297 beds, with 11 degreed counseling staff. With the 297 beds, he is running about 240 evidence-based programs in the facility.

In response to a question by Representative Butler, Mr. Brady said there is an after care plan for those inmates who complete the SAP program, but it depends on what the judge orders for the inmate.

Representative Tilley noted that there are 2 million severely mentally ill individuals serviced by jails every year. Three quarters of these individuals have addictions, which cost 2-3 times more than the average person detained. There is no return on investment because a better plan is not in place to improve recidivism rates and recovery numbers.

The meeting was adjourned at 12:00 p.m.

## 2015 FEDERAL ENVIRONMENTAL REGULATION IMPACT ASSESSMENT TASK FORCE

### Minutes of the 1st Meeting of the 2015 Interim

August 24, 2015

**Call to Order and Roll Call**

The 1st meeting of the 2015 Federal Environmental Regulation Impact Assessment Task Force was held on Monday, August 24, 2015, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll. The members briefly introduced themselves.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Brandon Smith and Robin L. Webb; Representatives Tim Couch and Fitz Steele; Rusty Cress, Jeff Derouen, Eric Evans, John Fischer, Greg Higdon, Michael Kurtz, Andrew McNeill, James See, Tom Underwood, and Jim Ward.

Legislative Guests: Representative Rocky Atkins.

Guests: John Lyons, Assistant Secretary for Climate Policy, Energy and Environment Cabinet; and Sean Riley, Chief Deputy Attorney General.

LRC Staff: Janine Coy-Geeslin, Stefan Kasacavage, D. Todd Littlefield, and Kate Talley, Committee Assistant.

In introductory remarks, Representative Gooch said that in 2015 he proposed HCR 168 to address reliability and affordability of electricity in Kentucky. Electricity has not only become necessary to our standard of living, but also to our health and safety. The Environmental Protection Agency (EPA) is taking away our ability as a state to use our natural resources, such as coal. The purpose of this task force will be to find out how the new EPA Clean Power Plan (CPP) regulations will affect reliability and affordability of electricity in the state. The EPA's initial plan said the state had to reduce carbon emissions by 18 percent. The final plan has carbon emissions reduced by 31 percent. This is concerning since our federal government could mislead us about what is expected.

Representative Gooch said that the EPA has admitted that its CPP has no real effect on world climate reductions and climate change. However, it said that it is necessary to provide leadership to other countries. Representative Gooch has found no evidence of this since the rest of the world is racing to embrace coal, which is the cheapest worldwide source of fuel for electricity. Coal use around the world has grown four times faster than renewable energies according to the BP Review of World Energy 2015 Report. There are 1,200 new coal-fired power plants that are planned in 59 countries around the world. However, due to the restrictions on carbon emissions from new power plants under the CPP, there will be no new coal-fired power plants in the US other than one or two currently under construction. Nearly 75 percent of these new plants are in China and India.

**Explanation of Differences between US EPA's Recently Finalized Carbon Dioxide Emission Rate Targets for Power Plants in Kentucky and Previously Proposed Targets**

John Lyons, Deputy Secretary for Climate Policy, Energy and Environment Cabinet, explained how the CPP, received in early August, affects Kentucky. The entire plan is over 41,000 pages, and the Energy and Environment Cabinet has not had time to go through all of it. This final plan is significantly different from the proposed plan the cabinet commented on.

On January 8, 2014, section 111(b) standards were proposed. The cabinet submitted comments on these standards on April 22, 2014. On June 18, 2014, section 111(d) standards were proposed. The cabinet commented on these standards on November 26, 2014. The cabinet took full advantage of both of these opportunities to point out that our economy relies heavily on coal powered electricity, with half of our electricity usage going toward manufacturing. The final plan was signed on August 3, 2015, and is scheduled to be published in the Federal Register in early September 2015. Once this occurs, the plan becomes official and is open to litigation.

Section 111(b) applies to new coal generating units. Initially, the proposed plan allowed 1,100 pounds of carbon dioxide emissions per megawatt hour ($CO_2$/MWh). The cabinet commented that this level was below what was technologically feasible for even the most efficient, state-of-the-art new coal-fired plant without carbon capture and storage. The final standard is slightly higher at 1,400 pounds of $CO_2$/MWh, but this emissions limit would still require 20 percent of carbon emissions from a new coal-fired plant to be captured and stored. The standards for reconstructed and modified units did not change much. The standards for natural gas combined cycle technology did not change.

On August 3, 2015, section 111(d) standards were finalized. States are expected to submit a state implementation plan (SIP) by September 6, 2016. A state can receive a two-year extension if they submit an initial SIP that meets all the requirements. The Clean Energy Incentive Program (CEIP) is a new rule designed to give states credit that initiate renewable energy and energy efficiency programs. This rule has three interim periods and a final period with set standards for each. These interim periods begin in 2022 and must be completed by 2030.

The current fleet of power plants average 2,166 pounds of $CO_2$/MWh. The proposed rate was 1,763 pounds of $CO_2$/MWh. This rate was calculated using a four building-block approach, including energy efficiency gain at the plant, redispatch of existing natural gas power, dispatch of no or low-emitting nuclear generation or renewables, and energy efficiency gains made by users. The final rate was calculated using three areas of the United States where electricity is distributed: the Eastern Interconnect, the Western Interconnect, and the Texas Interconnect. The entire Eastern Interconnect's energy profile was used to determine what emissions reductions Kentucky could accomplish in applying the current four building-block formula. Using this new method, EPA determined Kentucky's final rate would be 1,286 pounds of $CO_2$/MWh, which amounts to a 41 percent rate reduction from current levels and 27 percent rate reduction from that which was proposed.

Representative Gooch commented that the EPA grossly underestimated the cost while exaggerating the benefits involved in this plan.

Representative Atkins commented that this information is extremely important to everyone in the state. If every coal-fired plant is forced to shut down, it would be challenging to deploy enough gas-fired generation to meet the state's electricity needs, and it would cost billions and billions of dollars. It is infuriating to see that about 20,000 people in eastern Kentucky have lost their jobs.

Mr. Lyons said that coal-fired generation currently accounts for 93 percent of our power. It would have to drop to 38 percent and be replaced with natural gas to reach the plan's rate. Given the steep decline in emissions mandated by the finalized plan, the cabinet believes the EPA's intention is for states not to rely on natural gas, but to develop renewable energy resources.

If a state fails to submit a SIP, a federal implementation plan (FIP) will be implemented. A model FIP was proposed on August 3, 2015, and is expected to be published in the Federal Register in early September. A 90-day comment period will follow. Essentially, the FIP is a cap and trade plan. Either a rate-based plan or mass-based plan will be implemented. The FIP offers less flexibility and mass targets will likely be very onerous.

Representative Gooch said that the Federal Energy Regulatory Commission (FERC) is responsible for protecting grid reliability. Commissioner Tony Clark said, "Whatever EPA believes are the environmental benefits of this regulation, it cannot be said that it will be done easily or inexpensively. Such is the stuff of unicorns and leprechauns." Congress could not pass a cap and trade plan, but the EPA can force such a plan.

In response to questions from Representative Steele, Mr. Lyons said that the final plan is very different from the proposed plan. The cabinet analyzing the new rules. Several states complained of Kentucky's proposed rate, and the EPA sought to correct the rate in the final plan. There will likely be plant closures just based on useful plant-life, but it is hard to predict. Mr. Lyons said that the cabinet will not develop a compliance plan for the new rules, but rather only an analysis that will serve as a transitional document for the incoming governor's administration that will be in power when a SIP will be due.

In response to a question from Mr. Higdon, Mr. Lyons said the nine states that can increase carbon emissions according to the final plan have higher utility rates than Kentucky. Available on the cabinet's website is a paper published in 2013 on the impact of carbon restrictions on electric rates that may be beneficial to the members.

In response to a question from Bill Bissett (attending on behalf of Dave Moss), Mr. Lyons said that the state can apply for an extension once it submits the SIP. The plan must meet all of the criteria including what steps the state is going to take to comply with the rules and how they are going to accomplish those steps.

In response to additional questions from Mr. Bissett, Mr. Lyons said the rationale for the change from the proposed rule to the final rule was never been explained by the EPA. The final rule focuses on renewable energy sources rather than the previous formula approach. The final rule is expected to go to the Federal Register in early September.

In response to a question from Representative Gooch, Mr. Lyons said that if a SIP is not submitted, there is nothing to approve or disapprove, and a FIP may be implemented immediately. The FIP will likely be a cap and trade plan.

In response to a question from Mr. Underwood, Mr. Lyons said the cabinet had a section on reliability and the need for a safety valve in the comments on the proposed plan. The final plan did address reliability, but not to the extent the cabinet had hoped. It is hard to forecast whether or not it will be an issue.

Senator Webb commented that this plan is an usurpation of power. It defies the balance of power in the American system. There is no fear of litigation by federal agencies. There should be a congressional response to this plan.

In response to a question from Representative Atkins, Sean Riley, Chief Deputy Attorney General, said that Kentucky is actively involved in litigation with 15 other states on this plan. A Petition for Extraordinary Writ has been filed. The EPA has seven days to respond. The states will then have four days to respond to the EPA. Once the final plan has been published to the Federal Register, a petition for review will be filed with a larger number of states involved.

In response to a question from Mr. Higdon, Mr. Riley said that in the Petition for Extraordinary

Writ, the states are arguing that the EPA is double regulating carbon dioxide, which is already regulated under a different section of the Clean Air Act. The Petition for Review will discuss all possible legal arguments that the joining states can bring forth.

In response to a question from Mr. Higdon, Mr. Lyons said a regulatory impact analysis was completed on this plan.

In response to a question from Representative Steele, Mr. Riley said the Tenth Amendment reserves powers to the states that are not constitutionally delegated to the federal government. Though it is unclear if the Tenth Amendment will be cited in litigation, every reasonable legal argument will be tendered to the court.

In response to a question from Mr. Cress, Mr. Lyons said the cabinet is constructing a transition analysis. Determining how to comply with the plan will be the biggest challenge.

In response to questions from Senator Carpenter, Mr. Lyons said that having the final plan published as soon as possible is key. This will allow time for litigation. Mr. Lyons also said that utilities take decades to construct Integrated Resource Plans. The EPA will probably reserve the right to implement a FIP if a state proposes changes that the EPA does not find acceptable to an already-submitted SIP.

In response to a question from Representative Couch, Mr. Lyons said the cabinet's economic impact analysis for the CPP is dated, but they are currently working on an updated analysis that will hopefully be completed by the next task force meeting.

In response to a question from Mr. Ward, Mr. Lyons said that the SIP is submitted by the Governor. In order to change the SIP, a revision would have to be submitted as is currently required.

Representative Gooch commented that during the 2014 session, House Bill 388 was passed that made it plain the legislature does want some input in approving a SIP.

In response to questions from Mr. See, Mr. Riley said the Attorney General's office has not begun to look at the potential legal action to bring if a FIP were to be implemented. Litigation can always be brought against the federal government when a change is brought to regulations. Mr. Lyons said if a change to the SIP is denied, a petition can be brought against the EPA. However, if a SIP is not submitted and a FIP is implemented, litigation may not be an option. Mr. Riley reminded the task force that a state always has a legal remedy, but whether it is successful depends on the facts of the case.

In response to a comment from Representative Gooch, Mr. Lyons said the plan does mention third-party litigation.

Representative Gooch said that this plan is going to have a huge impact on affordability and reliability. Credits will have to be purchased, and these will add cost to ratepayers. Reliability is another issue that needs to be examined by the task force.

Mr. Bissett said that he would like to hear from the FERC commissioner.

Senator Smith said that he would like the heavy utility consumers in the state to appear before the task force.

The meeting adjourned at 2:50 PM.

## PUBLIC PENSION OVERSIGHT BOARD

### Minutes

August 24, 2015

**Call to Order and Roll Call**

A meeting of the Public Pension Oversight Board was held on Monday, August 24, 2015, at 12:00 Noon, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order. An official roll call was not conducted, however all members were present.

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; Robyn Bender, Tom Bennett, Robert Damron, Jane Driskell, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Representatives Jerry Miller, Derrick Graham, and Arnold Simpson; Mary Martin; Doug Price; Lowell Reese, Kentucky Roll Call; L. B. Vanmeter, Kentucky Judicial Form Retirement System; Bob Rowland, Kentucky Retired Teachers Association; Kentucky Transportation Engineers Association; and Kentucky Association of State Employees, among others.

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

**Approval of Minutes**

Representative Yonts moved that the minutes of the June 22, 2015, meeting be approved. Mr. Thompson seconded the motion, and the minutes were approved without objection.

**Kentucky Retirement Systems Anticipated Budget Needs / Update**

Bill Thielen, Executive Director, and David Peden, Chief Investment Officer, Kentucky Retirement Systems, discussed the budget needs and impact of the actuarially required contribution (ARC) on the 2017-18 budget and the investment performance of the portfolio for the month of June and fiscal year to date.

Mr. Peden stated that for the fiscal year ending June 30 the composite return for the entire portfolio was up 2.01 percent versus the benchmark return of 3.13 percent. Private equity was the best performer at 9.61 percent; the real estate return was 7.85 percent; U.S. public equity was up 6.04 percent; absolute return was up 5.489 percent; and fixed income was up 1.44 percent. The emerging market equities, non-U.S. equity and real return asset classes resulted in negative returns of -6.66, -3.99, and -3.98 percent respectively. For the year U.S. equity markets performed well, along with real estate, whereas emerging markets struggled the entire year, which was mainly due to commodity exposure. The non-U.S. equity portfolio performed well on a relative basis, beating its benchmark by eighty-six basis points; however, the portfolio could not overcome the movement or strength in the dollar, which resulted in the negative 3.99 percent return, and any inflation sensitive assets, such as commodities, particularly oil and energy generally, performed poorly last year. KRS was disappointed that the portfolio was unable to attain the 7.75 percent assumed rate of return on assets, but there were only three asset classes that performed up to the assumed rate last year, which were private equity, real estate, and if the U.S. public equity had kept up with the benchmark it would have performed at about 7.25 or 7.5 percent. Unfortunately there were not enough dollars invested in those asset classes, which was largely a function of the asset allocation decisions made five years ago. KRS is updating the asset allocation. The investment committee will review the recommendation proposal by R.V. Kuhns and a draft of the CEM benchmarking fee study at its next meeting.

In regards to the U.S. public equity and why it underperformed, Mr. Peden stated that KRS predominately uses active management and is overweight in a value approach–meaning stocks that are cheap on a price to earnings or price to cash flow basis–as opposed to a growth approach. So, for example, the Russell 3000 Growth Index was up 10.69 percent last year versus the Russell 3000 Value Index, which was only up 3.86 percent. This is in large part why KRS underperformed the U.S. public equity benchmark. He The markets are beginning to appreciate the value of traditional companies with good cash flow and earnings, which has not been the case over the last few years that have been dominated by super growth companies that may or may not have any actual earnings, or even that lose money, but have earned investors 20 to 50 percent over the last 12 months. Historically, value stocks have outperformed growth stocks, and KRS feels that is the best position long term. The KERS non-hazardous plan was the best performing plan during the last fiscal year, and was up 2.38 percent for the year. The reason it outperformed the other plans is because it has no emerging market equity exposure, which was the worst asset class last year, and because it has an unintentional over weight to private equity, meaning that it has a target of 10 percent to private equity but spent most of the year at 13 or 14 percent because the assets are shrinking faster than the private equity investments are maturing. This is the first year that post January 1, 2014, cash balance or Tier 3 employees receive a return on their investment, which will be a 7.78 percent return based on the five year performance number.

Responding to a question by Co-Chair Bowen, Mr. Peden indicated that what will be recommended to the investment committee is that the asset allocation change very little in the CERS hazardous and non-hazardous plans, the KERS hazardous plan, and the five insurance plans, although there will be a decrease in fixed income, an increase in public equity, and a slight decrease in inflation sensitive assets, in order to meet the target of 7.5 percent. The KERS non-hazardous and SPRS plans will have significant recommended changes, but he said he would prefer to discuss those changes at the next meeting after the investment committee has had an opportunity to discuss the recommendations. Both plans need to have as much liquidity as possible, which will make it a challenge to earn 7.5 percent on those assets.

In response to questions by Co-Chair Yonts relating to the recent chaos in the stock market and the influence of a downturn in the economy of China, and how it will affect decisions made at the investment committee meeting, Mr. Peden said that it confirms the use of active management versus passive management for investing. He said that performance is reviewed quarterly but it has not been a part of the process to actively change the asset allocation more frequently than five years.

Responding to Representative Thompson, Mr. Peden stated the cash balance employees earning the 7.78 percent return received the benefit of the eight years the plan performed well; however, on a five year basis there are very few time periods where performance will not be better than a 4.0 percent return, which is the return guaranteed by the legislation.

Representative Miller commented that although the market is down 7.0 percent there is no liquidity problem that retirees should be concerned about and that KRS will be able to handle the variation in the current market. Mr. Peden agreed, stating that they are nowhere close to a situation where assets would be impaired or KRS would be unable to pay benefits.

In response to a question from Mr. Jefferson, Mr. Peden said it would be unfair to prejudge what the investment committee will decide at its meeting to address the situation and to meet the challenge of attaining the 7.5 percent target on investment return and how that process will unfold throughout the year.

Mr. Thielen discussed the impact of the actuarially required contribution (ARC) to KRS on the 2017-18 budget. The actuarial audit has been completed and will be presented to the audit committee and the full KRS Board at its September 10 meeting. At some point in the near future the Segal Company will present that report to PPOB.

He noted that the City of Hillview has filed a Chapter 9 bankruptcy petition and that the city is a participating employer with KRS, which is named as an unsecured creditor, although it does not appear that the city will try to extinguish any debt to the retirement system. KRS will monitor the case.

The information for the fiscal year will be provided to the actuaries who will begin the valuation process that will result in the recommended contribution rates for the 2017-18 fiscal years. Projected contribution rates have been submitted to the State Budget Office and LRC staff. The valuation will be presented to the KRS Board at its December meeting and historically the Board has adopted the rates as recommended by the actuary. Certain assumptions were made to determine the impact of paying 100 percent of the ARC for the KERS non-hazardous pension. Total payroll reported to KRS as of June 30, 2015, on which contributions were paid during the year was used, which was $1.669 billion dollars. A growth factor of 3.5 percent, which is the actuarially assumed growth rate, was then applied to determine an estimated total payroll for 2017 of $1.7 billion. In 2015, the total contribution for the pension plan was $526,756,713 at a contribution rate of 30.84 percent, and the insurance contribution was $135,446,846 at a rate of 7.93 percent, for a total contribution of $662,203,559. With the projected rates and contributions using the payroll growth factor of 3.5 percent, the total contributions for fiscal 2017 to pay the full ARC is $785.6 million, or an increase of $123,396,788 over what is being paid and was paid in fiscal 2015. The combined rate using these assumptions will be 45.46 percent of the projected payroll (36.93 percent for pension and 8.53 percent for insurance). The contribution rate set by the KRS Board will be for both years of the biennium.

The same assumptions were used to project the estimated contributions for 2017 for the KERS hazardous plan. Using a contribution rate of 20.05 percent with an estimated $29.5 million in contributions for the pension plan, and a contribution rate of 4.08 percent with an estimated $6.0 million in contributions for insurance, the total contribution in dollars will be $35.6 million or a decrease of about $2.0 million from the total contributions in 2015 of $37.5 million. The reason for this decrease is that the KERS hazardous insurance plan is over 100 percent funded, which dropped the rate about 6.0 percent.

The total contributions for the SPRS plan were $35.7 million in 2015. The same assumptions were made for this plan to estimate the contributions required for 2017. The rate of contributions required for this plan are 66.67 percent for the pension and 20.04 percent for insurance, for a total contribution of $42.3 million in 2017. This is an increase of about $6.6 million. The total impact in dollars is projected to be about $128 million more to pay 100 percent of the ARC in the 2017-18 fiscal years. The total contributions for all systems for 2016 are estimated at $863.5 million.

For the CERS hazardous and non-hazardous plans, payroll growth was decreased to 2.5 percent for the estimates. Using that assumed rate the total estimated contributions for 2017 for both the pension and insurance is $432.5 million, or 17.89 percent combined, compared to contributions in 2015 of $402.3 million, or 17.06 percent, representing an increase of $30.1 million to fully fund the ARC.

Responding to Representative Thompson, Mr. Thielen said that although the projections are for one year, the projected rates will be the same for both years. However, the payroll may grow more or less so that the dollar amount will be different but the contribution rate will be the same. He said the State Budget Office will address the amount out of the general fund that would be needed in its presentation.

Mr. Thielen indicated in response to questions by Representative Simpson that the 3.5 percent payroll growth is derived by the actuary by using national numbers charted on a long term basis. However, the experience study showed that payroll had not grown as anticipated, and therefore the assumed rate was reduced from 4.5 percent to the current 3.5 percent rate. KRS will be reviewing that number each year because the percentage of payroll growth has not been attained for a number of years, but not attaining that payroll growth also increases the contribution rate. Therefore, if the payroll growth does not increase to the 3.5 percent over the next biennium the estimated contribution would be inadequate to fully fund the ARC.

Responding to Representative Yonts regarding the GASB rules and any impact they will have on the CERS plans, Mr. Thielen said that no changes have been required in the manner in which the ARC is calculated as a result of GASB 67 because KRS was already using the actuarial method that GASB suggested. Therefore, they will not have any impact on the KRS plans, and no additional contributions will be required of the CERS participants.

Co-Chair Bowen asked Mr. Thielen to further explain the SPRS estimated contributions being almost 87 percent of payroll. Mr. Thielen stated that, a few years ago, the percentage was about 102 percent of payroll and that there are a number of factors for the unfunded liability in the plans, one being the shortfall in the contribution rate 15 out of 22 years. The health insurance plan for hazardous duty is very expensive.

In response to a question by Senator Higdon concerning the unfunded liability, Mr. Thielen indicated that the principle factors are investment losses experienced in 2008 and 2009. Mr. Peden stated some of those losses go as far back as 2000 through 2002 where there were three negative years in a row and that when those losses were full recognized actuarially in the mid-2000s is when the unfunded liability increased. He said that prior to 2008 cost of living adjustments (COLAs) were granted each year based on the consumer price index, some up to five percent. The COLAs, investment losses, shortfalls in the contribution rate, and compliance and funding for GASB 43 and 45 in 2006-07 for health insurance are all factors for the unfunded liability. Mr. Thielen also stated that there has not been a benefit increase since about 2002. The benefit factor currently for KERS is 1.97 percent. After House Bill 1, there is a phased benefit factor beginning at 1.5 percent, and depending on the years of service, the factor increases, and after 30 years of service, it becomes 2.0 percent for all years of service after 30 years, which results in a lower overall benefit factor for those hired on or after September 1, 2008 until December 31, 2013, when the hybrid cash balance plan tier became effective.

Co-Chair Bowen said that the benefit factor needs to be discussed at a later time.

**Kentucky Teacher Retirement Systems Anticipated Budget Needs / Update**

Gary Harbin, Executive Secretary, KTRS, discussed the budget needs for the next biennium. The rates for KTRS have not increased since 1999. Today KTRS is 53 percent funded. Teachers in Kentucky are not subject to social security, therefore the overall rates paid by the employer in the KRS system include an additional social security contribution at 6.2 percent. In 2001, on a national average, state and local pensions were 100 percent funded. He said that today all pension plans nationally are about 75-76 percent funded and on average the contribution rates plus the employer portion of social security has increased from just over 12 percent in 2001 to almost 24 percent. The universities and CERS have both pension plans in additional to a teachers' pension in their field of membership. KTRS was 90 percent funded in 2001 compared to 53 percent funded today. The statutory contribution rate has remained the same throughout this period at 13.105 percent. The cash flow for KTRS has been negative since 2008 and it has had to sell over $600 million in assets to meet the $1.8 billion retiree payroll. Over the next four years KTRS will be selling $3.5 billion in assets to meet retiree payroll. KTRS is not in as good of a position as it was in 2008, when it had the ability to hold onto investments in the market downturn and the fund eventually realized really good returns on those investments. KTRS is now in the position where it cannot hold onto those investments and will have to sell $3.5 billion in assets to meet its obligations unless additional funding sources are identified and budgeted.

Teachers contribute about 13 percent of pay and of that amount 9.105 percent goes into the pension and 3.75 percent into the medical plan. For fiscal 2017, the budget request for the contribution funded through the SEEK formula in the Department of Education budget is $388 million, increasing to $395 million projected for fiscal 2018, and assuming a three percent increase over and above the current payroll. For all new members after July 1, 2008, there is a matching 14.105 percent contribution, a portion of which funds retiree health insurance benefits. There are annual expenditures requested out of the general fund budget for sick leave and other expenses, which amounts to approximately $5 million per year. The state's portion of the health insurance shared responsibility funding is projected to be $71 million in fiscal 2017 and $78 million in fiscal 2018, and as the retiree numbers grow those amounts will increase. Total annual expenditures that will be requested in the next biennium for this item will be $76 million in the first year of the biennium and $83 million in the second year. There is a 1.5 percent COLA built into the contribution rate by statute. From time to time COLAs were awarded over and above the 1.5 percent level up to the consumer price index and were amortized over 20 years, and payments for these COLAs has decreased from $80 million in fiscal 2013 to $52 million in each of the next two years of the biennium. Benefits for minimum benefits, sick leave salary benefits, and prior years medical benefits were also amortized. In fiscal 2017 the requested amount is $114 million and in fiscal year 2018 it is $112 million. There has been a shortfall in past budgets in the SEEK formula and in the next biennium there is an expected shortfall of $35 million in the SEEK formula. The compounded effect of the additional funding requested that was not appropriated has resulted in a total additional contribution required of $520 million in fiscal 2017 and $488 million in fiscal 2018 that is being requested. The debt service that was paid on bonds to fund the state's portion of shared responsibility and transition funds for funding of legislation in 2010 for healthcare totaled over $800 million. The bonds amortized over 10 years costs $103 million in fiscal 2013, $124 million in 2014, $120 million in fiscal 2015, $116 in fiscal 2016, and is projected at $107 million in 2017, and $97 million in fiscal 2018. The rate on these bonds is about 2.5 percent. It was proposed that as these monies decreased for debt service that the monies be applied to the shortfall of $520 million in fiscal 2017.

KTRS investment performance for the fiscal year ending June 30, 2015, was strong at 5.1 percent. The returns were 12.3 percent over a three year period, 12.0 percent over five years, 7.0 percent over 10 years, and 7.6 percent over a 20 year period, which are very comparable to the California State Teachers Retirement System (CalSTRS) that has $191.4 billion in assets and is 68 percent funded. The assumed rate of return for the KTRS is 7.5 percent.

To accommodate a scheduling issue for the State Budget Office, Mr. Harbin was asked to defer the remainder of his presentation until after the presentation by Ms. Driskell and Mr. Hicks.

**Anticipated General Fund Budget Needs for KRS and KTRS**

Jane Driskell, State Budget Director, and John Hicks, Deputy State Budget Director, discussed the costs for budgeting of the KRS and KTRS pension systems.

Ms. Driskell and Mr. Hicks provided a perspective of how the budget office budgets for retirement costs and the budgetary treatment for KERS and KTRS, which are treated differently. Ms. Driskell discussed the employer contribution rates, the amount that is included in the current budget for the 2016 fiscal year, and an estimate of how much more is needed in the 2016-18 biennial budget for the KERS plans. In the budget process, the actuarial recommendations are reviewed for the pension systems. The agencies also receive biennial budget request instructions that define how they determine what should be included for the pension costs, which in the current biennium and in future budgets is the full ARC. The State Budget Director's Office works with the Governor in preparing the executive budget recommendations for consideration by the General Assembly. The statutory employer contributions rates are used for SEEK and other state government participating employers for the KTRS, and estimates from the actuarial analysis are provided by the KRS for the employer contributions rates. The amounts for pension are explicitly budgeted in all three branches. Other agencies are treated differently, with amounts partially included, such as for participating universities and KCTCS, public health departments, and mental health/mental retardation boards. The contribution rates for the KERS employers for the pension plans have increased from 26.79 percent for the non-hazardous plan in fiscal 2014 to estimated rates of 45.46 percent in fiscal 2017 and 45.80 percent in 2018. The hazardous rates have decreased from 32.21 percent in 2014 to estimated contribution rates of 24.15 percent in fiscal 2017 and 23.71 percent in fiscal 2018. The SPRS contribution rates have increased from 71.15 percent in 2014 to estimated rates of 86.71 percent in fiscal 2017 and 88.0 percent in fiscal 2018. She said the non-hazardous rates rose 44.7 percent in fiscal year 2015 and are estimated to rise another 17.3 percent in fiscal 2017. She said that in the 2016 budget an additional $194 million was added to fund the full ARC for KRS, of which $106 million came from the general fund. In fiscal 2017 those rates will require an additional estimated amount of $108 million with about $60 million coming from the general fund.

Mr. Hicks discussed costs of the KTRS in the 2015-16 budget. He said there are two approaches to funding KTRS from a budget standpoint, the statutory employer contribution rate that provides funding targets that are placed in the SEEK appropriation. There was $380.5 million general fund dollars within the SEEK budget that represented 13.105 percent of the statutory employer contribution rate for school districts and $14.2 million in state agency employer contributions, of which $8.6 million was from the general fund, and $31.9 million in federal funds from the school districts. He reminded the board that for the contribution rate school districts do participate much like health insurance to the extent they have federal grant funds that flow through the districts. The KTRS receives direct general fund dollars to cover any amount that is not covered by the ARC and other elements of the system that are not funded by the employer contribution rate. In fiscal 2015-16 there was $299.3 million in direct general fund appropriations to KTRS and a total of about $726.0 million to the system that is placed in the SEEK formula and other state agencies, of which $688.4 million was from the general fund. This amount in the general fund is about what is placed in the general fund for Department of Education's health insurance for all the school districts. The 2014-16 budget bill language contained a pledge that as bonds issued in 2011 to repay the pension fund and to phase in the higher medical fund contributions were paid down that the funds to make those bond payments would be applied to the unfunded liability. By the end of fiscal 2024 that amount would be $116.5 million that could be diverted and used for paying the unfunded liability. He said that the additional amount needed to get to the full ARC for KTRS will be $520.4 million in fiscal year 2017 and for fiscal 2018 the amount has not yet been determined and will be available in November.

In summary, Ms. Driskell indicated the total amount included in the 2016 budget for retirement costs for the KRS was $731.5 million of which $301.9 million were general fund dollars, and for the KTRS was $725.9 million of which $688.4 million was general fund dollars, and for the two systems the amount is $1.457 billion with $990.3 million coming from the general fund.

In response to questions by Co-Chair Bowen, Ms. Driskell stated that the $520.4 million in the 2017 budget is the additional amount that will be needed to make the full ARC payment for KTRS and will catch up the unfunded liability since 2008 to fully fund the ARC.

Responding to questions by Representative Simpson concerning the payroll growth assumptions for the KERS, Mr. Hicks said that in looking at the valuation each year and the five year experience study the payroll growth is an important assumption to determine how many dollars are flowing into the system and how many benefits flow out. Payroll growth is a gross amount of wages and salaries that are applicable and that when employees retire and annual and compensatory leave time is cashed out and now the "spiking" provision, these amounts are included as well because it is real money. Another component is the turnover and hiring of employees, and he noted that career advancement changes salaries.

In response to a question by Co-Chair Yonts relating to the KTRS employer contributions, Mr. Hicks said that all funds for KTRS is about $725.9 million, which represents what is budgeted, plus the additional amount for fiscal 2016 of $487.4 million, the shortfall for the current fiscal year, added to the

$725.9 would be the equivalent of the full ARC.

Responding to Co-Chair Yonts concerning both the KRS and KTRS ARC and any projections for receipt of any surplus funds for payment, Ms. Driskell said that the budget office would go through the process to determine what the amount of revenue will be in the next biennium and the plan or approach for addressing the issue of payment or funding.

In response to a question posed by Representative Thompson concerning the $990.3 million general fund portion of the retirement costs for both systems, Ms. Driskell said this amount is about 10 percent of the total budget. Combining the $688.4 million and $520.4 million, or about $1.3 billion, would fully fund the ARC for 2017 for KTRS.

In response to a question by Representative Linder concerning the shortfall since 2008 for KTRS, Mr. Hicks indicated it is the shortfall from not only investments but what goes into the performance of the system and the benefit payments and revenue stream.

For clarification of her understanding of the ARC for KTRS, Ms. Stemler asked if the ARC is the current year required contributions to fund the benefit that is being earned plus an amortization of the shortfall or what has not been paid or is behind, Mr. Hicks agreed and believed that KTRS had reinstituted a 30 year period, but that could better be addressed by Mr. Harbin.

Responding to questions by Senator Higdon, Mr. Harbin indicated that although the numbers are not final it is projected that the additional funding for the full ARC in fiscal 2018 will be approximately $488.0 million with the liability being amortized over 30 years and there are 29 years remaining. He said the amortized sick leave salary benefit of $52.2 million from 1999 to 2018 is the liability created to the retirement portion of the benefit not the benefit itself.

In response to a question by Representative Thompson, Mr. Harbin stated that the KTRS is right at $18 billion in asset base.

Co-Chair Bowen commented that in light of the market volatility in the last few days that the General Assembly made a good decision not to bond $3.3 billion in anticipation of a 7.5 percent return, Mr. Harbin indicated that the real issue is not the $3.3 billion but rather how the state will get from adding no additional dollars in for the ARC to the $520.0 million needed by the end of this year. The $3.3 billion bond is a "bridge loan" and is a valuable tool and will cover KTRS' cash flow for an eight year period and help pay for the assets that it will have to sell to make benefit payments. Without the additional cash flow from either the ARC payment of $520.0 million or some other outside funding, KTRS may find that it must sell investments that have been devalued by a market downturn.

Responding to Co-Chair Bowen about the cashing in sick leave as a benefit upon retirement, Mr. Harbin said the benefit for allowing this is for the continuity of the teacher in the classroom and so that a school district does not have to compensate a substitute. He said that there are about 17 percent of school employees who do not receive that benefit.

In response to a question by Representative Linder concerning the bonding issue and the volatility of the markets and the economies of other countries and the global market, and how KTRS is invested in the market going forward, Mr. Harbin indicated that the market correction is a natural process that occurs in the stock market. He noted that corrections can be opportunities to buy stocks when they are low and that during the downturn in 2008 KTRS was able to take advantage of that situation. However, he stated that KTRS is not in that same position today, and instead is in the position of being forced to sell investments to meet retirement benefits. KTRS is invested heavily in stocks, with about 19 percent of its assets in international stocks and about 38 percent in U.S. equity.

**Review of Kentucky Retirement Systems Non-hazardous Cash Flow Issues**

Brad Gross, LRC staff, discussed cash flow issues with the KERS non-hazardous plan as to the funding impact with the provisions of Senate Bill 2, discussions from the 2012 pension task force, the preliminary financial statements for 2015, historical cash flow data, assumptions, and funding options. The basic funding principle for pensions is contributions (C) plus investments (I) equals benefits (B) plus expenses (E). Most employees contribute five percent of their pay under the statute that goes to the pension and any new hire after September 1, 2008, contributes six percent, but the additional one percent goes into retiree health. The ARC for KERS non-hazardous is at 38.77 percent of payroll, which includes a pension contribution and a retiree health contribution. There are two separate valuations, one for the normal contribution, which is the amount the actuary budgets for the upcoming year's costs, and a payment to the unfunded liability. In Senate Bill 2 three provisions impacted cash flow: 1) the payment of the full actuarially required contribution (ARC); 2) ending the cost of living adjustments (COLA); and 3) a re-amortization of the unfunded actuarial liability. The ARC went from 26.79 percent of payroll to 38.77 percent in the current budget. In 1996, a measure was passed to provide an automatic COLA based upon the consumer price index (CPI) but it contained language that stated it could not be funded until after it was awarded, therefore each COLA was adding to the unfunded liability. Re-amortizing the unfunded liability over a new 30 year period also affected cash flow.

When Senate Bill 2 was considered, there was an actuarial analysis that showed that if the same funding schedule to slowly phase into the ARC and the COLAs continued, that the projected employer contribution rate would grow from 26.79 percent up to about 65.0 percent of payroll. It also showed that beginning to immediately pay the full ARC would cause it to move to 38 percent of payroll and then level off to 40.0 percent of payroll in the long term. In other words, in the short term Senate Bill 2 required additional contributions, but in the long term produced savings. In terms of the dollar amount, the contribution rate increases because it is assumed that the payroll will increase. The assumed payroll growth annually is four percent and is used in the actuarial valuation and projections, and the 3.5 percent is the inflationary component. Mr. Gross also pointed out that, although the percentage of payroll increased between the projection under Senate Bill 2 and the latest projections, the dollar amounts are basically the same in the out years.

During the 2012 pension task force discussions, there were cash flow items that were discussed but not adopted. The issuance of bonds was discussed, paying additional contributions beyond the ARC, and raising the employee contribution rates. There has also been discussion of proposals using various sources of revenue for deposit into the pension funds.

In terms of cash flow for the 2015 fiscal year, employee contributions at five percent contributed about $100 million to the pension fund; employer contributions contributed $523.0 million, with $132.0 million going to retiree health; and about $13.0 million was derived from other sources such as court settlements and spiking. KERS non-hazardous investment income for the year was 2.38 percent, with the net investment income of $44.0 million for the pension and $8.7 million for health. So, there was a total of $681.4 million to the non-hazardous pension plan and $144.0 to the health plan. Benefit payments and expenses totaled $929.8 million in fiscal 2015, resulting in a net decrease of $248.4 million on the unaudited financial statements. The assets from the beginning of the fiscal year dropped from $2.6 billion to $2.3 billion. There was positive improvement in the retiree health and assets continue to improve.

In 2000, the funding level for the KERS non-hazardous pension fund was at 139.6 percent with a $1.9 billion surplus. In 2014, the funding level was at 21.0 percent and the unfunded accrued liability (UAL) was $9.13 billion. The plan assets have decreased from $5.48 billion in 2001 to $2.33 billion as of June 30, 2015. However, the retiree health fund assets have grown from $396.3 in 2001 to $665.6 as of the current fiscal year.

Mr. Gross said current funding projection indicated that the funding level will fall from 21.0 percent in fiscal 2014 to 14.9 percent before improvement is seen, and that asset values are anticipated to drop to around $1.9 billion. The 2015 asset liability modeling study indicates that there is a five to eight percent probability that the KERS non-hazardous plan could fully deplete assets in the next 20 years, assuming all assumptions are met, and that returns would have to be about 24.0 percent over the next 10 years or 15.0 percent over the next 20 years to achieve the 100 percent funding levels.

Moving forward, key factors for improving cash flow are paying the full ARC, payroll growth, and investment returns. If no additional action is taken for funding, the ARC is anticipated to increase by $112 million in fiscal 2017 based upon the payroll, with $100 million going to the pension fund. Legislative action could be taken to bond additional contributions, and KRS has analyzed the impact of additional funding of between $1 and $5 billion, as well as the impact of adding additional funding in increments of $250 million for four years for $1 billion, or $250 million over eight years for $2 billion. Another option to increase cash flow is to supplement the funds flowing into KRS by setting the employer contribution rate above the ARC.

Projected asset levels over the next 20 years range from $2.389 billion in 2015 to $3.951 in 2033.

The projected amounts for the different potential funding options were provided over this 20 year period also. The funding levels for this same period of time in the current projections range from 19 percent in 2015 to 29 percent in 2033. He said of interest is when looking at the infusion of $1 billion and $2 billion in increments of $250 million over the four or eight year period of time and the $1 billion and $2 billion at the incremental level in the out years there is not a big difference between funding levels.

Co-Chair Bowen indicated he was not opposed to bonding; however, efficiencies need to be identified and could serve as a revenue stream to support the bond payments.

In response to a question by Mr. Jefferson, Mr. Gross said that if the actuarial projections in terms of dollars had been made and had the return on investments been met it would still be short of necessary funds. One issue is the liabilities are growing faster than the assets actuarially, so the unfunded liability continues to grow even if the full ARC is being paid.

Co-Chair Yonts pointed out that state government for the last eight years has had the lowest number of employees, which affects payroll growth.

Co-Chair Bowen announced that the next meeting is scheduled for Monday, September 28.

The meeting adjourned at 2:20 p.m.

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

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes**

September 2, 2015

**Call to Order and Roll Call**

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 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; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Paul Hornback, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Tom McKee, Terry Mills, Ryan Quarles, and Jonathan Shell.

Guests: Dr. Donald Miller, Director, Brown Cancer Center, University of Louisville; Dr. Mark Evers, Director, Markey Cancer Center, University of Kentucky; Mr. Roger Thomas, Mr. Joel Neaveille, Mr. Bill McCloskey, Ms. Angela Blank, Dr. Luther Hughes, Governor’s Office of Agricultural Policy; Mr. Pat Henderson, Agricultural Development Board.

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

The August 5, 2015 minutes were approved, without objection, by voice vote, upon a motion by Representative McKee and seconded by Representative Mills.

**Kentucky Lung Cancer Research Program**

Dr. B. Mark Evers and Dr. Donald Miller, Directors of the Markey Cancer Center at the University of Kentucky and the Brown Cancer Center, University of Louisville, discussed the latest developments at the institutions relating to lung cancer research, funded partially by tobacco settlement dollars.

Dr. Evers discussed the mission of the Markey Cancer Center. Turning to the burden of cancer in Kentucky, he indicated the state leads the nation in overall cancer mortality, the Appalachian region has the highest cancer mortality rate in the state, and lung cancer accounts for 35 percent of total cancer deaths in the Commonwealth. He updated the committee on the National Cancer Institute (NCI) designation in 2013 that ultimately resulted in $7.5 million in funding over five years. Overall funding for the cancer center has continued to grow, he said, aided by the NCI designation.

Dr. Evers discussed the research and work being done at Markey, particularly attacking cancer through genomics and personalized medicine, treating tobacco addition in cancer patients, and survivorship care. He covered Markey’s outreach through its affiliates, professional education and training and community outreach.

Dr. Miller discussed the toll that cancer has on Kentuckians. According to Dr. Miller, the state has fallen behind the nation in cancer mortality since 1975, when Kentucky cancer mortality rates were comparable to U.S. rates.

Dr. Miller discussed Brown’s translational drug research programs that extend from the laboratory to use in patients. He mentioned a breath analysis system for early cancer detection of lung cancer, the development of a tobacco-based cervical cancer vaccine that should be in clinical trials next year, research on a tobacco-based colon cancer vaccine, the possibility of using fruits such as grapes to combat cancer, and a mouse embryonic stem cell vaccine. He talked about the significance of a data gathering project involving a number of schools throughout the state.

The cancer center directors responded to several committee members’ questions both during and after their presentations.

Dr. Evers responded to Co-Chair Stone and Representative McKee, mentioning that Kentucky’s cancer rates are similar to some Southern states, such as Alabama, Louisiana, and Mississippi. Smoking contributes to high cancer rates in the state, but there are other factors such as genetics and environmental aspects, such as the prevalence of radon.

Responding to Senator Gibson, Dr. Evers and Dr. Miller commented on the handling of donations to the American Cancer Society (ACS). Dr. Evers mentioned he has not seen a downtick in ACS funding and Dr. Miller told the committee the organization has done good work in terms of supporting research.

Dr. Evers responded to Representative Denham’s comments on smoking cessation funding in the state, noting that one Markey researcher has received national funding for smoking cessation work.

Responding to Representative McKee regarding the cervical cancer work, Dr. Miller said he believes researchers are getting closer to getting the drug out, in particular for use as an oral vaccine in Third World countries. A national foundation that has taken an interest in the research. Oral vaccines are good to use in the Third World.

Dr. Miller told Representative McKee that work is being conducted on vaccines for melanoma and other cancers.

**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 August meeting.

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

GOAP officials responded to committee members’ questions about the latest county account balance report, which showed that all counties receiving tobacco funds have over $9.7 million available to fund projects. Responding to Co-Chair Stone initially and to Representative Mills later, it was reported that fund balances are on par with previous years. Mr. Neaveill said it is typical for 85-90 counties use their available funds in a given year. The funds roll over and are regained by counties from one year to the next.

GOAP staff provided details on the statewide and regional projects approved for funding at the last ADB meeting: Summit Meat Processing, $165,000 as a forgivable loan to establish a meat processing facility in Pulaski County; Seven Springs Sorghum Producers, $30,000 in state and county contributions to construct an events barn to be used for agritourism events, including a sorghum festival and other agricultural related events; Cumberland Agricultural Management, $50,000 in state funds, a $225,000 loan, and other county funds to build and equip an animal rendering facility in Metcalfe County; Daviess County Fiscal Court, $25,000 in county funds for a storm water master plan directed at flood risk management; and Hickman County Board of Education, $4,221 in Hickman County funds to buy welding equipment for the high school agriculture department.

Responding to Co-Chair Stone, GOAP officials described the rationale for the use of a forgivable loan arrangement in the Summit Meat Processing project. According to Mr. Thomas, the loan arrangement was the first approved by the board since about 2007. Tracking cost reimbursements were a problem in the past, but the terms and conditions of the Summit project would assure the enterprise will have to stay in business for five years.

In a response to Senator Gibson, Mr. Neaveill described the principals in the business and how the business will operate.

Responding to Senator Parrett, Mr. McCloskey described the loan collateral for the Seven Springs project, indicating that land will secure the loan. In a response to Senator Webb, Mr. Thomas said that reimbursement provisions on the project were standard. He agreed with the senator that there also would be other typical legal remedies available.

Senator Webb commented on whether it was appropriate to help fund the Daviess County storm water project. She commented on a precedent being set and indicated that the U.S. Army Corps of Engineers should be undertaking such projects.

Responding to the senator's comments and to Co-Chair Stone, Mr. Thomas said the board had delayed a decision on the project and that he had mentioned that in a prior committee meeting. He said the board felt a connection was made for a direct farmer benefit with the project.

Regarding a project that did not receive tobacco settlement funding, Shoppes of Kentucky, based in Campbell County, Mr. Neaveill indicated the board's reluctance to approve funds for a project that may not be viable.

As the meeting ended, Mr. Thomas said that a new set of commercials touting the importance of commodity meat production in Kentucky will be airing soon. The board and commodity groups are paying for the commercials.

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

## GOVERNMENT CONTRACT REVIEW COMMITTEE

### Committee Minutes

September 8, 2015

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, September 8, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Dennis Horlander, Co-Chair; Senator Paul Hornback; Representatives Jim Gooch Jr., Brad Montell, and Brent Yonts.

Guests: Bill Harris, Murray Clark, Charlie Harman, Virginia Graves, and Darren Sammons.

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

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

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

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

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

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

**AUGUST 2015 DEFERRED ITEM:**

WESTERN KENTUCKY UNIVERSITY:

Freedom Sports and Entertainment, LLC, 151610. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed.

**DEFERRED ITEM**

MURRAY STATE UNIVERSITY:

Helen Grant Consulting, LLC, 105-16. A motion was made by Representative Yonts to defer the contract to the October meeting of the committee. Representative Horlander seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

ATTORNEY GENERAL, OFFICE OF THE:

Bailey Perrin Bailey, PLLC, 1500002886; Stauss Troy County, LPA, 1600000314.

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Morgan and Pottinger, 1600000466.

CABINET FOR HEALTH AND FAMILY SERVICES:

Trisha Zeller, 1600000408; Tiffany Lorraine Yahr, 1600000409; Mary Hall Sergent, 1600000410; Constance Gullette Grayson, 1600000411.

CORRECTIONS, DEPARTMENT OF:

Praeses, LLC, 1600000413; Maddox & Associates, 1600000476.

DEPARTMENT FOR INCOME SUPPORT:

Robert Culbertson, M. D., 1600000198; Jose T. Lorenzo, 1600000199.

EASTERN KENTUCKY UNIVERSITY:

Summit Engineering, Inc., 16-113; Alexander Haas, 16-122; Bullhorn Creative, 16-126.

EDUCATION, DEPARTMENT OF:

Chenoweth Law Office, 1600000172; Research Foundation of SUNY, 1600000365.

FINANCE AND ADMINISTRATION CABINET:

Stoll Keenon Ogden, PLLC, 1600000480.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Peck Flannery Gream Warren, Inc., 1600000101; Paladin, Inc., 1600000104; Facility Commissioning Group, 1600000180; Third Rock Consultants, LLC, 1600000239; Patrick Engineering, Inc., 1600000268; Facility Commissioning Group, 1600000311; Kohrs Lonnemann Heil Engineers, PSC, 1600000312.

JUSTICE CABINET:

Multi, 1600000192.

KENTUCKY EMPLOYERS MUTUAL INSURANCE:

Dean Dorton Allen Ford, PLLC, 16-DDF-001.

MOREHEAD STATE UNIVERSITY:

E-Learning Connection, 16-040; Carson Consulting and Training, Inc., 16-041; The Segal Company (Eastern States), Inc., 16-042.

MURRAY STATE UNIVERSITY:

Deaf & Hard of Hearing Interpreter, Referral & Advocacy Services, LLC, 006-16.

STATE POLICE, DEPARTMENT OF:

Law Enforcement Services, Inc., 1600000283; Roy Pace Jr., 1600000286; Michael Webb, 1600000315; Powerphone, Inc., 1600000415.

TRANSPORTATION CABINET:

Neel-Schaffer, Inc., 1600000333; Palmer Engineering County, 1600000349; QK4, Inc., 1600000429; Integrated Engineering, 1600000436; American Engineers, Inc., 1600000437; CDP Engineers, Inc., 1600000438; Strand Associates, Inc., 1600000440; Palmer Engineering, 1600000444; HDR Engineering, Inc., 1600000446; QK4, Inc., 1600000447; HMB Professional Engineers, Inc., 1600000448; Strand Associates, Inc., 1600000449; Palmer Engineering County, 1600000467; HDR Engineering, Inc., 1600000468; HMB Professional Engineers, Inc., 1600000469; O. R. Colan Associates of Florida, LLC, 1600000473; Stantec Consulting Services, Inc., 1600000478; BTM Associates, Inc., 1600000490; URS Corporation, 1600000491; Strand Associates, Inc., 1600000506.

UNIVERSITY OF KENTUCKY:

Staggs & Fisher Engineers, A161080; Sasaki Associates, Inc., K16-137; The Vortechs Group, K16-138; TreMonti Consulting, LLC, K16-139; Artivex Technology Consulting, Inc., K16-140; Sofware Information Systems, LLC, K16-141; Matrix Integration, K16-142; Dell Marketing, L.P., K16-143; American Cancer Society, Inc., K16-144; Sign Language Network of Kentucky, K16-145; Deloitte Consulting, LLP, K16-146; Cammack Retirement Group, K16-147; Sibson Consulting, A Division of Segal Company, K16-148.

UNIVERSITY OF LOUISVILLE:

Isaacson Miller, Inc., 16-009; Baker & Associates, LLC, 16-010; Nelnet Diversified Solutions, LLC d/b/a Merchant Preservation Services, 16-011; Greenwood / Asher & Associates, Inc., 16-015; QK4, Inc., 16-016.

WESTERN KENTUCKY UNIVERSITY:

Ruffalo Noel Levitz, 151614; Community Action of Southern Kentucky, Inc., 151615; Sibson Consulting, Division of Segal Group, 151617.

WORKER'S COMPENSATION FUNDING COMMISSION:

Goldberg Simpson, LLC, 1600000252

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

CORRECTIONS, DEPARTMENT OF:

Diamond Drugs, Inc., 1400002507; Mid America Health, Inc., 1400002566.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Stantec Consulting Services, Inc., 0600002006.

DEPARTMENT FOR INCOME SUPPORT:

Ed Stodola, 1400000903; Humildad Arizures, 1400000905; Sanjoydeb Mukherjee, 1400000934; Michelle D. Bornstein, 1400002449; Kay Barnfield

Psy.D., PSC, 1400002450; Tonya R. Gonzalez, 1400002451.

DEPARTMENT FOR PUBLIC HEALTH:

Matthew 25 Aids Services, Inc., 1400003150.

FINANCE AND ADMINISTRATION CABINET:

Wyatt ,Tarrant, and Combs, LLP, 1500001029.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

URS Corporation, 1100000073; EOP Architects, PSC, 1200001615; Godsey Associates Architects Inc., 1300002655; Clotfelter Samokar, PSC, 1500000669; Godsey Associates Architects, Inc., 1500000966; EOP Architects, PSC, 1500001370.

FISH & WILDLIFE, DEPARTMENT OF:

Jonathan Mangin, 1400002000.

NORTHERN KENTUCKY UNIVERSITY:

Multi, 2016-666-1.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

University of Kentucky Research Foundation, 1400000339.

TRANSPORTATION CABINET:

BTM Engineering, Inc., 0700003469; HMB Professional Engineers, Inc., 1000000851; Palmer Engineering, 1200002167; Lee Engineering, LLC, 1300000057; DLZ Kentucky, Inc., 1300001429; EA Partners, PLC, 1300002466; Construction Estimating Institute, 1500001251; Quest Engineering, Inc., C-06190563; E.A. Partners, PLC, C-99005363-1; Vaughn and Melton, C-99005603-5; Presnell Associates, Inc. d/b/a QK4, C-99067714-7.

UNIVERSITY OF KENTUCKY:

NTT Data Enterprise Services, Inc., K15-187.

UNIVERSITY OF LOUISVILLE:

Western Institutional Review Board, Inc., 15-106.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

AGRICULTURE, DEPARTMENT OF:

Kentucky 4-H Foundation, 1600000507; Kentucky FFA Foundation Incorporated, 1600000508.

DEPARTMENT FOR NATURAL RESOURCES:

Multi, 1500002876.

DEPARTMENT FOR PUBLIC HEALTH:

Cumberland River Behavioral Health Inc., 1400001585-1; Department of Education, 1400001639-1.

EDUCATION, DEPARTMENT OF:

Save the Children, 1500002102; Jefferson County Board of Education, 1500002402; Newport Independent Board of Education, 1500002406; Bath County Board of Education, 1500002803; Bowling Green Independent Board of Education, 1500002804; Boyd County Board of Education, 1500002805; Fayette County Board of Education, 1500002810; Jefferson County Board of Education, 1500002811; University of Louisville Research Foundation, 1500002833; Jessamine County Board of Education, 1500002836; Johnson County Board of Education, 1500002837; Kenton County Board of Education, 1500002838; Lawrence County Board of Education, 1500002839; Lewis County Board of Education, 1500002841; Franklin County Board of Education, 1500002842; Newport Independent Board of Education, 1500002852; Powell County Board of Education, 1500002853; Trigg County Board of Education, 1500002855; Union County Board of Education, 1500002856; University of Kentucky Research Foundation, 1500002866; Mason County Board of Education, 1500002869; Morehead State University, 1600000053; Eastern Kentucky University, 1600000093; NKU Research Foundation, 1600000094; NKU Research Foundation, 1600000095; NKU Research Foundation, 1600000108; NKU Research Foundation, 1600000110; University of Kentucky MERR, 1600000164; Western Kentucky University Research Foundation, 1600000185; Kentucky Center for the Arts, 1600000232; Newport Independent Board of Education, 1600000253; Jefferson County Board of Education, 1600000254; Menifee County Board of Education, 1600000271; Fayette County Board of Education, 1600000272; Jefferson County Board of Education, 1600000275; Martin County Board of Education, 1600000329; Jessamine County Board of Education, 1600000494.

ENERGY AND ENVIRONMENT CABINET, OFFICE OF THE SECRETARY:

McCracken County Fiscal Court, 1600000451.

FISH & WILDLIFE, DEPARTMENT OF:

City of Paducah, 1600000179.

INFRASTRUCTURE AUTHORITY:

Cumberland Valley Area Development District, Inc., 1600000032; Barren River Area Development District, 1600000073; Big Sandy Area Development District, 1600000082; Green River Area Development District, 1600000089; Gateway Area Development District, 1600000092; Kentuckiana Regional Planning & Development Agency, 1600000111; Kentucky River Area Development District, 1600000113; Lake Cumberland Area Development District, 1600000114; Lincoln Trail Area Development District, 1600000115; Northern Kentucky Area Development District, 1600000116; Purchase Area Development District, 1600000118; Pennyrile Area Development District, 1600000120.

KENTUCKY COMMISSION ON MILITARY AFFAIRS:

University of Louisville Research Foundation, 1600000310.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

University of Kentucky, 1600000298.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Floyd County Fiscal Court, 1600000277; Boone County Fiscal Court, 1600000306; Caldwell County Fiscal Court, 1600000308; Lewis County Fiscal Court, 1600000309; Barren River Area Development District, 1600000325; Northern Kentucky Area Development District, 1600000326; City of Columbus, 1600000327; Gateway Area Development District, 1600000328; City of Arlington, 1600000330; FIVCO Area Development District, 1600000331; Purchase Area Development District, 1600000336; City of Madisonville, 1600000337; City of Pikeville, 1600000339; City of Paducah, 1600000341; Cumberland Valley Area Development District, 1600000346; City of Park City, 1600000351; Monroe County Fiscal Court, 1600000352; Butler County Fiscal Court, 1600000354; Henderson County Fiscal Court, 1600000393; Union County Fiscal Court, 1600000433; City of Pembroke, 1600000479; Johnson County Fiscal Court, 1600000481.

STATE POLICE, DEPARTMENT OF:

Kentucky Medical Service, 1600000287.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001218.

CORRECTIONS, DEPARTMENT OF:

University of Kentucky Research Foundation, 1400001542; Harlan County Fiscal Court, 1500001642; Shelby County Detention Center, 1500001661; Three Forks Regional Jail, 1500001662; Henderson County Jail, 1500001771; Powell County Fiscal Court, 1500001772.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Pennyroyal Mental Health, 1400000852; Green River Regional Mental Health Mental Retardation Board d/b/a Rivervalley Behavior, 1400000853; Lifeskills Incorporated, 1400000854; Northern Kentucky Regional Mental Health Mental Retardation Board, 1400000857; Comprehend Incorporated, 1400000858; Lake Cumberland Mental Health Mental Retardation Board, 1400000863; Bluegrass.org, 1400000864; University of Kentucky Research Foundation, 1400000994; Kentucky Partnership for Families and Children, Inc., 1400001307; Cabinet for Workforce Development, 1500001098; Four Rivers Behavioral Health, 1500001721; Communicare, Inc., 1500001725; Mountain Comp Care Center, 1500001730; Cumberland River Behavioral Health Incorporated, 1500001732; Eastern Kentucky University, 1500001918.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Green River Regional Mental Health Mental Retardation Board, 1400003146.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

UK Research Foundation, 1400001991.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Homeless and Housing, 1400003292; Ohio Valley Education Cooperative, 1400003295; Berea College, 1400003302; Kentucky Coalition Against Domestic Violence, Inc., 1400003309; Teach for America, 1400003311; Project Unite, 1400003312; Green River Area Development District, 1400003316; Jefferson County Board of Education, 1400003345; Green River Area Development District, 1400003346; Barren County Board of Education, 1400003349.

DEPARTMENT FOR PUBLIC HEALTH:

Cumberland River Regional Mental Health Mental Retardation Board, 1400001585; Bluegrass.org, 1400001594; Seven Counties Services, 1400001634; Kentucky Department of Education, 1400001639.

EDUCATION, DEPARTMENT OF:

Fayette County Treasurer Board of Education, 1500001386; Pulaski County Board of Education, 1500001391; Kentucky Partnership for Families and Children, Inc., 1500001459; Newport Independent Board of Education, 1500002465; Franklin County Board of Education, 1500002489; Anderson County Board of Education, 1500002665; Corbin Independent Board of Education, 1500002686; Greenup County Board of Education, 1600000007; Southeast/Southcentral Educational Cooperative, 1600000035; Newport Independent Board of Education, 1600000036.

HERITAGE COUNCIL:

City of Bardstown, 1400003661.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1500000654.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Harlan County Fiscal Court, 1400001830; Wolfe County Fiscal Court, 1400003454; Floyd County Fiscal Court, 1500000608; Knox County Fiscal Court, 1500001811.

TRANSPORTATION CABINET:

Kentucky Transportation Center, 1400001566.

WORKFORCE INVESTMENT, OFFICE OF:

Idaho Department of Labor, 1500002144.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

UNIVERSITY OF KENTUCKY:

Huron Consulting Services, LLC, K15-205. Bill Harris and Murray Clark 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.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

EDUCATION, DEPARTMENT OF:

Southern Regional Education Board, 1600000219; The Center for Education Leadership, 1600000223. Charlie Harman discussed the contracts with the committee. A motion was made by Representative Horlander to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Big Sandy Area Development District, 1600000357; Green River Area Development District, 1600000359; Pennyrile Area Development District, 1600000439. Virginia Graves and Darren Sammons 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 no further business before the committee, the meeting adjourned at 10:27 a.m.

## SB 192 IMPLEMENTATION OVERSIGHT COMMITTEE

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

September 14, 2015

**Call to Order and Roll Call**

The 4th meeting of the SB 192 Implementation Oversight Committee was held on Monday, September 14, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Connie Freking, Children's Home of Northern Kentucky; Jim Thaxton, HIRT; Daniel Shubert, DPA; Joan Arlinghaus, PAR/HIRT; Lolita R. Curtis, SAMHSA; Pam Dimmerman, Transitions, Inc.; John Launius, VOA-MID; Karen Davis, Assistant Jefferson County Attorney.

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

The minutes of the August 10, 2015 meeting were approved without objection.

**SB 192 Implementation Update and Substance Use Treatment in Medicaid**

Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services presented an update on substance use treatment in Medicaid. In January 2014 in response to the Affordable Care Act (ACA), the Cabinet submitted a State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to expand Medicaid to cover individuals at or below 138 percent of the federal poverty level. In addition, the provider network was expanded so there would be a broader base of individuals to deliver services to the new folks coming in, as well as those currently on Medicaid. Expansion demographics indicate that the average recipient is 38 years old, and there is an even distribution of males and females. Expansion members receive the same benefit package as traditional Medicaid members. The ACA required coverage for the expansion population of 10 essential health benefits including behavioral health and substance use disorder services. Prior to the ACA, substance use treatment was limited to pregnant women and women 60 day postpartum. Post ACA, substance use treatment benefits are available to the entire Medicaid population. Now, options after 60 day postpartum include traditional Medicaid, Medicaid expansion, or coverage through kynect. Approximately 79 percent of pregnant women re-enter Medicaid after delivery.

Commissioner Lee discussed additional behavioral health and substance use services provided through Medicaid. There is now an array of rehabilitation services covered. Targeted case management is now included in the service package for adolescents and adults with substance use disorders; and adults and children with co-occurring mental health or substance use disorders and chronic or complete physical health issues.

Commissioner Lee discussed new provider types for mental health and substance use services. Knowing that Medicaid would be expanded, the provider types that could deliver behavioral health services to Medicaid recipients were expanded to include licensed practitioners, licensed organizations, and provider groups. Prior to January 1, 2014, the service delivery was limited to Community Mental Health Centers (CMHCs). The Cabinet worked with the Office of Inspector General to develop a new licensure category for Behavioral Health Services Organizations (BHSOs) to provide clinical behavioral health and substance use disorder services in community-based and residential programs.

Residential Crisis Stabilization Units are another new separate licensure category being developed to augment existing CMHCs and residential psychiatric crisis stabilization services. There are also some non-licensed service professionals, including targeted case managers, community support associates, or peer support specialists who must meet training and supervision requirements as approved by the Department for Behavioral Health.

SB 192 required the Department to process applications for providers within 45 days. Since the Department does not distinguish what services an enrolling provider delivers, all behavioral health applications are already expedited. Current average processing time for behavioral health provider applications is 11 days.

In response to a question by Representative Butler, Commissioner Lee said prior to the ACA there was some limited targeted case management. Dr. Brenzel added that case management has been a service that has been available in the State Plan for persons with serious and persistent mental illness. A case manager is an integrator of all of the components of treatment. The case manager's responsibility is to ensure that all the players have information and that there is a shared treatment plan. It is a low-cost role that results in better outcomes when the services are coordinated by an individual.

In response to a question by Representative Butler, Dr. Brenzel said he is not sure how many case managers Kentucky has. There are several different levels of case managers. There are case managers in all community mental health centers and private providers can now provide case managers within the confines of their offices.

In response to a question by Representative Floyd, Commissioner Lee said before the ACA if you were a disabled individual coming into the Medicaid program, income eligibility would have been approximately 100 percent of the federal poverty level, but that individual would have had to meet the criteria to qualify for Medicaid.

In response to a question by Senator McDaniel, Dr. Brenzel said he will address providers of medically assisted treatment in his upcoming presentation.

**Substance Use Treatment Capacity and Licensure**

Maryellen Mynear, Inspector General, Office of Inspector General, Cabinet for Health and Family Services presented an overview of licensure and different provider types that are licensed. She said the Division of Health Care within the Office of Inspector General is responsible for inspecting, monitoring, and licensing health facilities, including programs which offer alcohol abuse, drug abuse, and mental health services. The Office of Inspector General tends to license entities, as opposed to individuals. Individuals when required to be licensed are generally licensed through their professional licensing boards. The licensure categories include: Alcohol and other Drug Abuse Treatment Entities (AODE), Behavioral Health Services Organizations (BHSO), Community Mental Health Centers (CMHC), Chemical Dependency Treatment Centers (CDTC), and hospitals. The AODEs are the more well known. They operate a variety of programs within their licensure. The total number of non-residential AODEs is 206. The total number of residential AODE facilities is 27 with 1134 beds statewide. On July 15, 2014, the Office of Inspector General filed an emergency regulation to establish requirements for the operation of BHSOs, a new category of licensure for entities that provide community-based services to individuals with substance use disorder, mental health disorder, or a co-occurring disorder. Because BHSOs are eligible to enroll in the Kentucky Medicaid Program, this new licensure category enhances patient access to needed behavioral health services, including substance abuse treatment, and helps prevent unnecessary admissions to facility-based care. The total number of dually licensed BHSO/AODE outpatient programs with substance abuse treatment is 43 parent facilities and 92 extension locations. The total number of dually licensed BHSO/AODE residential programs with substance abuse treatment is 24 with 714 beds statewide. The next licensed category are CMHCs. They provide a comprehensive range of accessible and coordinated mental health and substance abuse services. Fourteen CMHCs provide services statewide. The residential bed count for substance abuse treatment is included in the AODE numbers. The next category is CDTC. There are a total of four freestanding CDTCs in Kentucky: Louisville, Ashland, Georgetown, and Falmouth. These centers must have at least 8 beds and inpatient services must last less than 30 days. Inpatient CDTCs are not eligible for enrollment in Medicaid, but they may elect to provide and bill Medicaid for outpatient substance abuse treatment services. The last licensure category is hospitals. There are six hospitals in Kentucky with chemical dependency beds, with a total of 146 beds statewide.

In response to a question by Representative Floyd, Dr. Brenzel said part of individual variations in geography in terms of who the best provider of outpatient services is makes a difference. In areas where there may be a strong community mental health center outpatient service, there may be less need. But it is best when each provider can treat the patient across the continuum.

In response to a question by Senator McDaniel, Inspector General Mynear said the St. Elizabeth number does not account for the new beds that were announced on Friday.

**Substance Use Treatment Continuum of Care**

Mary Begley, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities, and Allen J. Brenzel, M.D., M.B.A., Medical Director, Department for Behavioral Health, Developmental and Intellectual Disabilities presented information on the continuum of care for substance use treatment. Commissioner Begley said there was an addition of Medicaid substance use disorder treatment benefit in 2014. The expansion of Medicaid eligibility included low income adults and opened the provider network in Medicaid beyond CMHCs. Also, there was an addition of the Licensed Drug and Alcohol Counselors to the provider network within the Medicaid program. Commissioner Begley said all the stakeholders have to be involved. She also noted that there are many tools to be used, and noted that quality evidence-based practice is very important. It is important to get quality services, not just services.

Dr. Brenzel discussed addiction. According to the American Society for Addiction Medicine the definition of addiction is a primary, chronic disease of brain reward, motivation, memory and related circuitry. Like other chronic diseases, addiction often involves cycles of relapse and remission. Without treatment or engagement in recovery activities, addiction is progressive and can result in disability or premature death. One size does not fit all. All individuals with substance use disorder are unique and treatment must be specifically tailored to that individual at that moment in time. There has to be access to a multi-dimensional assessment, and individuals need to be plugged into a continuum of services where they need to be. Without addressing the social determinants as a society, it will be a struggle to be successful. Building a high-quality assessment capacity that can justify the appropriate level of care is critical in developing access to services. Effective treatment is individualized. The one thing that is universal is the history of trauma. Building a trauma-informed approach enhances the ability to provide effective services and keep people engaged and lead them into recovery.

Dr. Brenzel discussed levels of care. When someone presents intoxicated, that is often a medical emergency. This is mainly treated in hospitals and emergency rooms, but it is also treated in jails and outpatient settings. These settings are often the initial contact with treatment. On way to build on this treatment is “SBIRT”, which is an offer of screening, brief intervention and referral to treatment. This is also a Medicaid-covered benefit which needs to be fully implemented in Kentucky. The next level is withdrawal. Some drugs create life-threatening withdrawal symptoms and require immediate medical attention. An assessment needs to be provided and then the individual needs to be plugged in an appropriate continuum. Very often a break from their environment is the next step. Entry into care can occur in a variety of settings. The number of individuals in treatment in 2014 for heroin and other opiates was almost 9,000. That number is just the surface for those that need treatment from those substances.

Dr. Brenzel noted that medication assisted treatment (MAT) is an evidence-based approach that involves prescribing medications to a person who is opiate dependent with benefits. MAT allows the individual to be stabilized and engaged in therapeutic services. Medications used in MAT include: Methadone, Buprenorphine, and Naltrexone. MAT requires close follow-up and engagement with the individual, and adjustment to the lowest dose that will control symptoms with periodic attempts to lower doses when clinically appropriate. A percentage of individuals may require chronic treatment. In 2014, 4500 individuals were treated in the 20 narcotic treatment programs in Kentucky. There is also office based opiate therapy (OBOTS). There are currently 517 physicians that have certification to prescribe Buprenorphine. The limit is 30 patients for the first year and then 100 per year. Eighty percent of the prescriptions for Buprenorphine are written by 20 percent of the doctors with the certification.

Dr. Brenzel discussed some special populations where the service access may look different. These include pregnant women and children. Pregnant women are a very complicated population to manage when opiate dependent. Fortunately in Kentucky there are some very specialized programs for these women. The other population, children, are usually at a different place with their patterns of abuse. They are usually not in need of residential because they have family that can monitor them. Attorney General settlement dollars were awarded to 19 programs across the state and some school-based screening programs were used to identify at-risk and early patterns of substance use disorder.

Dr. Brenzel concluded by noting that a challenge ahead is developing, funding and sustaining a comprehensive substance use disorder treatment continuum. Improving access to treatment has an impact. If access to treatment is improved, the number of deaths will decrease. Kentucky is still seeing about 1,000 deaths per year from substance use disorder.

Commissioner Begley discussed prevention. She said BHDID has been awarded $3.5 million SAMSHA grant targeting prescription drug use among 12-14 year olds. The Prevention branch is collaborating with the Treatment branch to reduce opioid use among pregnant women (Kids Now Plus). In 2014, new opioid-specific questions were added into the Kentucky Incentives for Prevention (KIP) school survey.

In response to a question by Representative Butler, Dr. Brenzel said those being treated for addiction to opiates other than heroin include primarily prescription drug abuse.

In response to a question by Senator McDaniel, Dr. Brenzel said two suggestions for parts of the continuum that need further development are the SBIRT intervention, a low-cost, low-yield service, and also mobile crisis services to come to ER’s.

In response to a question by Representative Butler, Commissioner Begley said one gap is that traditionally hospitals and community mental health centers did not work together. Unless someone needed state services, the two did not meet. The cabinet is encouraging the CMHCs to get into the ERs and let those ERs know what services they provide at the local level.

In response to a question by Representative Jenkins, Dr. Brenzel said the issue with Medicaid paying for Naloxone is because the preferred form, the nasal administration, is not approved by the FDA, therefore it is not on the Medicaid formulary. The FDA is currently trying to expedite approval of this drug.

In response to a question by Representative Jenkins, Dr. Brenzel said the old-school thought is before you can treat mental illness you have to treat the substance use disorder. There is now increasing recognition that they need to be treated in parallel. There is definite need for programs that recognize co-morbidity.

In response to a question by Representative Jenkins, Commissioner Begley said her department is working with the Department of Education on more prevention efforts in schools. Schools are locally managed, so it is up to the local districts. Unfortunately there is only so much that can be done by the state.

In response to a question by Senator McDaniel, Dr. Brenzel said there is Medicaid reimbursement for the Buprenorphine drug itself if Medicaid pre-authorization is obtained. In the future, the pre-authorization process could potentially be streamlined for providers identified as giving high-quality service, but at this time diversion of the drug is a big concern. Reimbursement for the office visit is a separate issue, and those rates are not set by the Cabinet. Commissioner Begley added that prior to Medicaid coverage, $400 cash payments once per month were made by individuals to physicians for a Buprenorphine prescription. Now those individuals are covered by Medicaid, so those $400 cash payments can no longer be made, and any price rate less than that may not be enough to incentivize physicians.

The meeting was adjourned at 11:28 a.m.

# 2016 Prefiled Bills

**BR 1** - Representative Jody Richards (09/04/15)

AN ACT relating to powdered or crystalline alcoholic beverage products.

Create a new section of KRS Chapter 244 to prohibit powdered or crystalline alcoholic beverage products; amend KRS 241.010 to include powdered or crystalline alcohol in the definition of an alcoholic beverage.

(Prefiled by the sponsor(s).)

**BR 5** - Senator John Schickel (06/25/15)

A RESOLUTION adjourning the Senate in honor of Nell Fookes upon the occasion of her retirement as the head coach of the Boone County High School girls' basketball team.

Honor Nell Fookes upon the ocassion of her retirement as the head coach of the Boone County High School girls' basketball team.

(Prefiled by the sponsor(s).)

**BR 7** - Representative Brad Montell, Representative Kevin D. Bratcher, Representative John Carney, Representative Jim DeCesare, Representative Myron Dossett, Representative Joseph M. Fischer, Representative David Hale, Representative Mike Harmon, Representative Jeff Hoover, Representative Kenny Imes, Representative Thomas Kerr, Representative Adam Koenig, Representative Stan Lee, Representative David Meade, Representative Michael Meredith, Representative Suzanne Miles, Representative David Osborne, Representative Ryan Quarles, Representative Bart Rowland, Representative Sal Santoro, Representative Jonathan Shell, Representative Tommy Turner, Representative Ken Upchurch (08/28/15)

AN ACT relating to the Health Insurance Trust Fund and making an appropriation therefor.

Amend KRS 18A.2254 to specify how surplus funds from a prior plan year of the Public Employee Health Insurance Program shall be allocated.

(Prefiled by the sponsor(s).)

**BR 11** - Representative Joni L. Jenkins (09/03/15)

AN ACT relating to tenancies in real property.

Create a new section of KRS Chapter 383 to provide that, after the effective date of this Act, residential tenants who hold a domestic violence order, a pretrial release no contact order, or an interpersonal protective order may terminate a lease with at least 30 days notice to landlords, while the lease continues for co-tenants; establish civil action for a landlord's economic losses due to termination against persons restrained by protective orders; for those tenants or applicants for tenancy who hold an emergency protective order, a domestic violence order, a pretrial release no contact order, an interpersonal protective order, or a temporary interpersonal protective order, those orders cannot serve as a basis for denying a lease and new locks may be requested at the tenant's expense; create a new section of KRS Chapter 383 to provide that, after the effective date of this Act, rental agreements shall not penalize tenants for requesting assistance from emergency services.

(Prefiled by the sponsor(s).)

**BR 15** - Representative Diane St. Onge (05/07/15)

AN ACT relating to service animals.

Amend KRS 525.200 to remove from the elements of the offense of assault on a service animal the requirement that service animal be unable to return to work; amend KRS 525.210 and 525.215 to conform; repeal KRS 525.205.

(Prefiled by the sponsor(s).)

**BR 16** - Senator John Schickel (06/25/15)

A RESOLUTION adjourning the Senate in honor and loving memory of Audrey Henke Metzger.

Adjourn the Senate in honor and loving memory of Audrey Henke Metzger.

(Prefiled by the sponsor(s).)

**BR 17** - Representative Darryl T. Owens (05/19/15)

AN ACT relating to criminal records.

Amend KRS 431.076 to expand the scope of an expungement motion under that statute to include felonies referred to a grand jury where no indictment ensues; amend KRS 431.078 to expand that statute's expungement process to include Class D felonies; amend KRS 527.040 to expressly provide that an expunged felony does not trigger the application of that statute; create a new section of KRS Chapter 413 to prohibit the introduction of information pertaining to an expunged conviction as evidence in a civil suit or administrative proceeding alleging negligent hiring or licensing.

(Prefiled by the sponsor(s).)

**BR 18** - Representative Darryl T. Owens (05/19/15)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to restructure the voting restrictions contained therein relating to felons and persons with mental disabilities; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 20** - Senator Reginald Thomas (06/02/15)

AN ACT relating to oaths.

Amend KRS 6.072 to require witnesses appearing before a committee, subcommittee, or task force of the General Assembly to take an oath prior to giving testimony.

(Prefiled by the sponsor(s).)

**BR 21** - Senator Reginald Thomas (07/13/15)

AN ACT relating to general principles of justification.

Create a new section of KRS Chapter 503 to incorporate the "no duty to retreat" provisions elsewhere in the chapter; amend KRS 503.050, 503.055, 503.070, and 503.080 to require a reasonable belief that defensive force is necessary before it is justified; change the term "great bodily harm" to "serious physical injury" as used throughout the Penal Code; amend KRS 503.060 to require an initial aggressor to retreat before the use of force can be rejustified; repeal KRS 503.120.

(Prefiled by the sponsor(s).)

**BR 31** - Representative Derrick Graham (07/07/15)

AN ACT relating to governance of postsecondary education institutions.

Amend KRS 164.011 to require new appointees to the council to complete orientation and education program to be eligible for a second term; amend KRS 164.020 to direct the Council on Postsecondary Education (CPE) to develop an orientation and education program for new governing board members of the council, public universities, and Kentucky Community and Technical College System (KCTCS); require that the program include six hours of instruction time with specific information and be delivered within one year of a new member's appointment; require an annual report listing new board members not completing the program; invite board members of private colleges and universities to participate; authorize the CPE to develop continuing education programs for all governing board members of public institutions and to review and approve orientation programs for governing boards of each public university and KCTCS; amend KRS 164.131 to require appointed and elected governing board members of the University of Kentucky to complete an orientation and education program to be eligible for a second term; amend KRS 164.321 to require appointed and elected governing board members of the comprehensive public universities and KCTCS to complete an orientation and education program to be eligible for a second term; amend KRS 164.821 to require appointed and elected governing board members of the University of Louisville to complete an orientation and education program to be eligible for a second term.

(Prefiled by the sponsor(s).)

**BR 37** - Representative Terry Mills (06/02/15)

AN ACT relating to problem, compulsive, or pathological gambling and making an appropriation therefor.

Amend KRS 222.005 to define "pathological gambling" and "problem gambling"; create new sections of KRS Chapter 222 to establish the Problem and Pathological Gamblers Awareness and Treatment Program; direct the use of funds and limit annual administrative costs to $200,000; establish the Gamblers Awareness and Treatment Program Advisory Council; establish the council's membership and responsibilities; require the Cabinet for Health and Family Services to promulgate administrative regulations in collaboration with the council; establish a funding and application process, certify disbursement of funds, and require reports annually; assign responsibilities to the director of the Division of Behavioral Health; amend KRS 222.001 and 222.003 to conform; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR 38** - Representative Terry Mills (08/05/15)

AN ACT relating to sales and use tax.

Amend KRS 139.480 to exempt bees used in a commercial enterprise for the production of honey or wax for sale and certain items used in that pursuit; EFFECTIVE August 1, 2016.

(Prefiled by the sponsor(s).)

**BR 40** - Senator John Schickel (06/25/15)

A RESOLUTION honoring Wilbur M. Zevely upon his recognition by the Northern Kentucky Bar Foundation with its Lifetime Achievement Award.

Honor Wilbur M. Zevely upon his recognition by the Northern Kentucky Bar Foundation with its Lifetime Achievement Award.

(Prefiled by the sponsor(s).)

**BR 42** - Senator Max Wise (07/14/15)

AN ACT relating to alternative certification programs.

Amend KRS 161.048 to allow a veteran with a bachelor's degree in any area to be issued a provisional teaching certificate if other criteria are met.

(Prefiled by the sponsor(s).)

**BR 45** - Representative Rick G. Nelson (09/10/15)

AN ACT relating to welding safety.

Create new sections of KRS Chapter 198B to establish requirements for projects requiring structural steel welding such as certification of welders and certified inspectors; provide definitions.

(Prefiled by the sponsor(s).)

**BR 54** - Senator Dennis Parrett (06/10/15)

AN ACT relating to driving under the influence and declaring an emergency.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 58** - Representative Arnold Simpson (07/15/15)

AN ACT relating to county clerks.

Repeal 1860 Kentucky Acts Chapter 351, approved February 18, 1860, entitled "AN ACT to establish an office for the recording of deeds and mortgages at Covington." which required individuals recording deeds and mortgages relating to properties in certain areas of the county to file those in Covington rather than Independence.

(Prefiled by the sponsor(s).)

**BR 65** - Senator Danny Carroll (09/11/15)

AN ACT relating to the safety of minors and declaring an emergency.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle to a person who enters a vehicle with the reasonable, good faith belief that a minor is in imminent danger of harm if not removed from the vehicle; encourage Transportation Cabinet to implement education on children left in vehicles; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 67** - Representative Kelly Flood (06/11/15)

AN ACT relating to driving under the influence and declaring an emergency.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 72** - Representative Brad Montell (08/11/15)

AN ACT relating to licensing fees and making an appropriation therefor.

Amend KRS 198B.6674, 227.050, and 318.136 to determine excess funds within the Division of Heating, Ventilation, and Air Conditioning, the Division of Plumbing, and the Electrical Division of the Department of Housing, Buildings and Construction; direct excess funds to be used to credit licensing fees; limit any transfer of funds to only excess funds in the account.

(Prefiled by the sponsor(s).)

**BR 75** - Representative Jim DuPlessis (07/29/15)

AN ACT relating to patient notification of mammogram results showing dense tissue.

Amend KRS 304.17-316 to require the provider of mammography services to provide information to a patient on breast density when appropriate; permit the Department for Public Health to provide update the definition of "dense breast tissue" if appropriate.

(Prefiled by the sponsor(s).)

**BR 77** - Representative Jeffery Donohue (08/31/15)

AN ACT relating to ziplines.

Amend KRS 247.232 to define "zipline";

create a new section of KRS Chapter 247 to direct the Department of Agriculture to promulgate administrative regulations related to ziplines; require the department to establish administrative penalties and civil penalties.

(Prefiled by the sponsor(s).)

**BR 101** - Representative Stan Lee, Representative David Meade, Representative Richard Heath (07/16/15)

AN ACT relating to marriage.

Amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize, or to issue or record licenses for, such marriages.

(Prefiled by the sponsor(s).)

**BR 102** - Representative Addia Wuchner, Representative Joseph M. Fischer, Representative David Floyd, Representative David Hale, Representative Richard Heath, Representative Kenny Imes, Representative Kim King, Representative Stan Lee, Representative Brian Linder, Representative Brad Montell, Representative Marie Rader, Representative Sal Santoro (07/02/15)

AN ACT relating to the exercise of religious freedom in the solemnization of marriage.

Amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize such marriages.

(Prefiled by the sponsor(s).)

**BR 113** - Representative Joni L. Jenkins (07/23/15)

AN ACT relating to civil rights.

Amend KRS 344.030 to include within the definition of reasonable accommodations, accommodations made for pregnancy, childbirth, and related medical conditions; amend KRS 344.040 to make an unlawful practice for employers who fail to accommodate an employee affected by pregnancy, childbirth, or related medical condition; require employers to provide notice to all employees regarding discrimination for pregnancy, childbirth, and related medical conditions.

(Prefiled by the sponsor(s).)

**BR 116** - Representative Kevin D. Bratcher (07/31/15)

AN ACT relating to the posting of historical documents.

Amend KRS 158.195 to require the postings of the preambles of the US Constitution and the Kentucky Constitution in all public school classrooms; allow a classroom teacher to choose placement within the classroom.

(Prefiled by the sponsor(s).)

**BR 125** - Senator Ralph Alvarado (09/16/15)

AN ACT relating to physicians.

Create a new section of KRS 311.530 to 311.620 to prohibit the Board of Medical Licensure from requiring any maintenance of certification and related continuing education requirements for licensure as a physician.

(Prefiled by the sponsor(s).)

**BR 126** - Senator Ralph Alvarado (09/16/15)

AN ACT relating to medical coverage.

Amend KRS 304.17A-254 to establish a policy governing the procedures for an insurer changing an existing agreement with a provider; amend KRS 304.17A-545 to require an insurer offering a health benefit plan to establish a policy governing he procedures for a Managed Care Organization changing an existing agreement with a provider.

(Prefiled by the sponsor(s).)

**BR 127** - Senator Ralph Alvarado (09/16/15)

AN ACT relating to the Board of Medical Licensure.

Amend KRS 311.530 to stipulate that appointees shall be appointed from a list of names submitted by the Kentucky Medical Association and delete language requiring the Governor to ensure that specialties are represented.

(Prefiled by the sponsor(s).)

**BR 134** - Representative Wilson Stone (09/02/15)

AN ACT relating to tuition waivers for children.

Amend KRS 164.2847 to provide a tuition waiver to a student at a Kentucky public postsecondary institution if the student's biological parents are deceased or have had their parental rights terminated due to neglect or abuse, if the student was adopted by a blood relative or assigned a legal guardian at least 12 months prior to the student's 18th birthday, and if documentation and information requested to confirm eligibility status is provided.

(Prefiled by the sponsor(s).)

**BR 135** - Representative Myron Dossett (08/06/15)

AN ACT relating to the solemnization of marriage.

Amend KRS 402.050 and 446.350 to exempt persons, officials, and institutions with religious objections to any marriage from any requirement to solemnize such a marriage.

(Prefiled by the sponsor(s).)

**BR 141** - Representative Jeffery Donohue (08/07/15)

A JOINT RESOLUTION designating the new downtown bridge on Interstate 65 in Jefferson County in honor of former Governor and United States Senator Wendell H. Ford.

Direct the Transportation Cabinet to designate the downtown bridge on Interstate 65 in Jefferson County as the "Wendell H. Ford Memorial Bridge," and to erect the appropriate signage.

(Prefiled by the sponsor(s).)

**BR 147** - Representative Ron Crimm (07/23/15)

AN ACT relating to the promotion of organ and bone marrow donation.

Create a new section of KRS Chapter 141 to establish the employers' organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act of 2016.

(Prefiled by the sponsor(s).)

**BR 154** - Representative David Hale (08/13/15)

AN ACT related to marriage and making an appropriation therefor.

Create a new section of KRS Chapter 213 to move marriage licensing and recording duties from county clerks to the state registrar of vital statistics, to allow a fee of $35.50 for licenses, and to provide for the transfer of existing marriage records; amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize such marriages; amend KRS 47.110, 64.012, 142.010, 209.160, 213.116, 402.080, 402.100, 402.110, 402.210, 402.220, 402.230, and 402.990 to conform; repeal KRS 402.240 which allows county judges/executive to issue marriage licenses in the absence of a county clerk; repeal KRS 402.170 which requires county clerks to distribute marriage manuals; EFFECTIVE JANUARY 1, 2017.

(Prefiled by the sponsor(s).)

**BR 158** - Representative Dennis Keene (09/04/15)

AN ACT relating to involuntary treatment for substance abuse.

Amend KRS 202A.011 to include substance use in the definition of "mentally ill person"; amend KRS 218A.133 to ensure that a petition may be filed pursuant to KRS Chapter 202A.

(Prefiled by the sponsor(s).)

**BR 167** - Representative Kelly Flood (08/11/15)

AN ACT relating to superintendent screening committee membership.

Amend KRS 160.352 to require a school equity council member be appointed to the superintendent screening committee, if an equity council exists.

(Prefiled by the sponsor(s).)

**BR 174** - Representative Kenny Imes (08/26/15)

AN ACT relating to travel required for certain state employees prior to appointment.

Amend KRS 18A.115 to require certain nonmerit employees to travel to Fulton or Hickman County and to Pike, Martin, or Letcher County prior to being appointed and every six years thereafter.

(Prefiled by the sponsor(s).)

**BR 178** - Representative Kenny Imes (08/14/15)

AN ACT proposing to amend Section 95 of

the Constitution of Kentucky relating to the election of state officers.

Propose to amend Section 95 of the Constitution of Kentucky to hold the elections of statewide constitutional officers in even-numbered years, every four years, beginning in 2024; provide transitional schedule; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 180** - Representative Kenny Imes (08/14/15)

AN ACT relating to the commissioner of education.

Amend KRS 156.148 to require Senate confirmation of the commissioner of education.

(Prefiled by the sponsor(s).)

**BR 197** - Representative Diane St. Onge (08/04/15)

AN ACT relating to drone surveillance.

Create a new section of KRS Chapter 500 to define “drone”; prohibit a law enforcement agency from using a drone to gather evidence or other information; provide exceptions; prohibit use of evidence obtained in violation; provide that the Act may be cited as the “Citizens’ Freedom from Unwarranted Surveillance Act.”

(Prefiled by the sponsor(s).)

**BR 199** - Representative Fitz Steele (08/04/15)

AN ACT relating to the property tax on unmined coal.

Amend KRS 132.820 to exempt unmined coal reserves from state and local property taxation if on January 1 of any tax year the owner or lessee of the reserve does not hold a valid permit from both the state and federal governments to mine coal from the reserve, and does not anticipate that coal will be mined from the reserve at any point during the tax year; amend KRS 131.190 to conform; make technical corrections; EFFECTIVE for property assessed on and after January 1, 2017.

(Prefiled by the sponsor(s).)

**BR 200** - Representative Fitz Steele (08/04/15)

AN ACT relating to coal severance revenues.

Amend various sections in KRS Chapter 42 to distribute 100 percent of coal severance revenues among the coal-producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090, 164.7890, and 164.7891 to make conforming changes; repeal KRS 42.490.

(Prefiled by the sponsor(s).)

**BR 201** - Representative Fitz Steele (08/04/15)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday during the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 214** - Representative Diane St. Onge (08/25/15)

AN ACT relating to preserving the right of Kentuckians to own and use firearms.

Create new sections of KRS Chapter 237 to declare legislative intent; invalidate and nullify all federal laws and regulations restricting ownership or possession of firearms; direct the General Assembly to take all appropriate action to safeguard Kentuckians’ rights to possess firearms in accordance with the second Amendment to the Constitution of the United States and Section 1 of the Constitution of Kentucky; amend KRS 527.040 to add persons who have been dishonorably discharged from the Armed Forces of the United States and persons illegally or unlawfully in the United States to the list of persons who shall not possess firearms.

(Prefiled by the sponsor(s). )

**BR 215** - Representative Jeff Hoover (09/17/15)

AN ACT relating to firearms.

Amend KRS 527.020 to allow Kentucky residents age 21 years or older and members of the Armed Forces to carry concealed handguns without a license under certain conditions.

(Prefiled by the sponsor(s).)

**BR 217** - Representative Larry Clark (08/14/15)

AN ACT relating to student assistants.

Create a new section of KRS Chapter 117 to allow minors 16 years of age or older to be appointed as student election assistants; amend KRS 117.045 to conform.

(Prefiled by the sponsor(s).)

**BR 225** - Representative Kelly Flood (09/15/15)

AN ACT relating to public benefit corporations.

Amend KRS 14A.3-010, 271B.1-400, 271B.2-020, 271B.6-260, 271B.7-400, 271B.8-300, 271B.13-020, and 271B.16-210, and create a new section of Subtitle 11 of KRS Chapter 271B to establish public benefit corporations.

(Prefiled by the sponsor(s).)

**BR 236** - Representative Brad Montell (09/08/15)

A CONCURRENT RESOLUTION directing the staff of the Legislative Research Commission to study municipal bankruptcy.

Direct the staff of the Legislative Research Commission to study municipal bankruptcy.

(Prefiled by the sponsor(s).)

**BR 241** - Senator Danny Carroll (09/11/15)

AN ACT relating to the safety of persons and animals and declaring an emergency.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle to a person who enters a vehicle with the reasonable, good faith belief that a minor is in imminent danger of harm or a dog or cat is in immediate danger of death if not removed from the vehicle; encourage Transportation Cabinet to implement education on children left in vehicles; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 254** - Representative Kim King (09/09/15)

AN ACT relating to sex offender registrants.

Amend KRS 17.545 to prohibit sex offender registrants from being present on the grounds of a publicly owned playground without advance written permission.

(Prefiled by the sponsor(s).)

**BR 255** - Representative Kim King (09/09/15)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for any state fiscal measure.

(Prefiled by the sponsor(s).)

**BR 256** - Representative Kim King (09/09/15)

AN ACT relating to foreign law.

Create a new section of KRS Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.

(Prefiled by the sponsor(s).)

**BR 257** - Representative Kim King (09/09/15)

AN ACT relating to school notification of persons authorized to contact or remove a child.

Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or remove the child from school grounds.

(Prefiled by the sponsor(s).)

**BR 258** - Representative Kim King (09/09/15)

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

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Printed with state funds

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

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