2016 Interim

LEGISLATIVE RECORD

Volume 29, No. 5
September 2016

* Read on-line at www.lrc.ky.gov/legislation.htm

Early childhood still benefiting from Kentucky tobacco dollars

by Rebecca Hanchett
LRC Public Information

A new "Kentucky All STARS" quality rating and improvement system launched this year is replacing the old STARS program, Education and Workforce Development Cabinet official Wayne Lewis told the committee. The migration was made possible by a $44.3 million federal Race to the Top grant received by the state two years ago.

A child care center is the last place someone may expect to see improvements funded by a lawsuit against tobacco companies. Well, unless the child care center is in Kentucky—the nation's second largest tobacco producer.

Sixteen years ago the Commonwealth earmarked 25 percent of its more than $3 billion share of a health-related national tobacco settlement for early childhood development. Today, the state has the STARS for KIDS NOW (Kentucky Invests in Developing Success) voluntary quality child care rating system, credentialing of child care workers, daily home visits for around 800 at-risk families, child care subsidies and other early childhood programs to show for that investment, officials with the Governor's Office of Early Childhood told the Tobacco Settlement Agreement Fund Oversight Committee on Sept. 7.

STARS Assistant Director Darlene Hoover held up her office's program as one example of how tobacco settlement funding has improved early child care and education in the state since KIDS NOW began over 15 years ago. Hoover said 1,649 child care centers now participate in STARS which serves over 22,700 children on any given day.

"In 2016, we have reached 78 percent of our total childcare providers who are actively in a STARS quality rating system," she told the committee.

A new "Kentucky All STARS" quality rating and improvement system launched this year for all early child care programs receiving public dollars is replacing the old STARS program, Education and Workforce Development Cabinet official Wayne Lewis told the committee. The migration, made possible by a $44.3 million federal Race to the Top grant received by the state in 2014, is expected to improve the quality of early childhood development in Kentucky even more.

When asked by committee co-chair Rep. Wilson Stone, D-Scottsville, if Kentucky All STARS will, over time, dramatically improve daycare, Lewis said he expects it will.

Moving forward, however, KIDS NOW may have less money to do its work than it did a few years ago. The program received nearly $30 million in tobacco settlement dollars in 2010 and will receive around $20 million for 2017, according Prichard Committee for Academic Excellence Executive Director Brigitte Blom Ramsey, who also testified before the committee.

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State lawmakers briefed on new federal education law

by Jim Hannah
LRC Public Information

U.S. Sen. Lamar Alexander of Tennessee recently told state legislators that Kentucky has a rare opportunity to once again lead the nation in education reform because of the recent passage of the federal Every Student Succeeds Act.

"Kentucky, has in the past, been a leader in a number of education areas," Alexander said during the Sept. 12 meeting of the Interim Joint Committee on Education. "There is no reason you can't continue to be, or be again."

As the result of the new law, Alexander

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U.S. Sen. Lamar Alexander (TN) and Senate President Robert Stivers, R-Manchester, speak to the Interim Joint Committee on Education about the federal Every Student Succeeds Act.

Early childhood,
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"We're looking at a decline over an eight year period of nearly $10 million. You know better than I that that's simply a result of the declining nature of the fund itself," said Ramsey. "But I did want to bring that to your attention—that those dollars dedicated to early childhood are naturally a declining source of revenue."

Ramsey stressed the importance of quality early childhood programs in Kentucky. "Because we know that quality really matters when it comes to the services that are provided to our young people if they are really going to be ready for success when they enter kindergarten," she told the committee.

Saying tobacco settlement funds for early childhood development has "made a difference" in Kentucky, Rep. Mike Denham, D-Maysville, encouraged continued support from his fellow lawmakers. "I encourage my colleagues to keep this funding in place, because it has made a real difference."

Committee co-chair Sen. C.B. Embry, R-Morgantown, also voiced his support for early childhood programs, saying quality care in early childhood "has great dividends over a lifetime."

Tobacco Settlement Agreement Fund Oversight Committee Co-Chair Rep. Wilson Stone, D-Scottsville, asks questions about improvements in early childhood in Kentucky during the committee's September meeting.

Federal law,
from page 1

said every state will write a new plan on how to spend the federal tax dollars for schools with high percentages of children from low-income families, sometimes referred to as Title I funding. Kentucky receives about $215 million annually in Title I funding, which represents 3 percent of Kentucky's total spending on elementary and secondary education, according to information presented to the committee.

The new law keeps the federally-mandated tests but places the responsibility about what to do to improve test scores back on the states, said Alexander, who previously served as U.S. secretary of education, as president of the University of Tennessee, and as the governor of Tennessee. He is currently the chairman of the U.S. Senate education committee.

Alexander emphasized that the new law retains accountability while empowering states, local school boards and teachers to educate children in a way best for their communities. It does not require states to follow Common Core standards.

"You can have Common Core, uncommon core, half of Common Core, no Common Core," Alexander said. "That is your business. In my own judgement … much of the resistance to Common Core – and it became a massive issue all over the country – was the idea that Washington was telling you what it ought to be."

Under the new law, states would also have more say in how they evaluate their own teachers, Alexander said. He added the new law is a result of compromise and that neither side of the debate got everything they wanted.

"If I'm standing in Nashville hitchhiking to New York and it is raining and somebody offers me a ride to Philadelphia, I'll probably take it," Alexander said. "And then I will try to think of a way to get to New York from Philadelphia on some sunny day.

"There are some people that say, 'If I don't get a ride to New York, I'm going to stand there another seven years in the rain.'"

> Alexander suggested Kentucky form a broad coalition, find a consensus and set goals before considering changing its laws.

Alexander said he wasn't will to be that man left standing in the rain. He told the committee that the next challenge is to get the law implemented as Congress intended.

"All that sounds pretty good, but as all of us know, the law isn't worth the paper it is printed on unless the U.S. education secretary implements it the way Congress wrote it," Alexander said.

He said proposed regulations from the U.S. Department of Education threatens the coalition of parents, teachers, superintendents, school boards, Republicans and Democrats that pushed for the new law's passage.

Every Student Succeeds Act passed late last year with strong support. The U.S. Senate passed it by an 85-12 vote. The U.S. House of Representatives passed it by a 359-64 vote.

Sen. Mike Wilson, R-Bowling Green, asked Alexander what the Kentucky General Assembly could do to help shape the state's new Title I plan.

"I'm reluctant to give Kentucky advice, being a Tennessean, but since you asked me I'll tell you what I think," Alexander said.

Despite the uncertainty of what the federal regulations will actually require, Alexander suggested Kentucky form a broad coalition, find a consensus and set goals before considering changing laws.

Rep. Derrick Graham, who co-chairs the interim committee with Wilson, thanked Alexander for emphasizing that the new law passed with bipartisan support.

"Sometimes around Washington and sometimes around here, it is more partisan," said Graham, D-Frankfort.

"In the issue of education, it should not be partisan. Education is the equal opportunity provider for all of us," Graham added." When we succeed in our education policies our state succeeds in being able to attract businesses to create jobs, to make life better for all people across the Commonwealth."

Work retraining could retool East Kentucky's future

by Rebecca Hanchett
LRC Public Information

Scan the locations of the "7 World-Changing Companies to Watch" published by *Fortune* magazine in August and you'll find few surprises until you get halfway down the list.

There, printed among the names of up-and-comers from tech-savvy locales like California, New York, Sweden and South Korea is a Pikeville, Kentucky firm called Bit Source. The computer coding company, which is retraining out-of-work coal industry workers and others for work in the digital world, had over 900 applicants when it opened over a year ago and as of early September had trained 10 former mine workers in web design and management.

Bit Source recently brought its first Fortune 500 client on board, reports *Fortune*, and is partnering with workforce training agencies like the Hazard-based Eastern Kentucky Concentrated Employment Program (EKCEP) to expand its reach.

"If it takes off, and grows, it could change the face of Eastern Kentucky," EKCEP Executive Director Jeff Whitehead told the Interim Joint Committee on Natural Resources and Environment Sept. 1.

Bit Source is only one partner in EKCEP's work to get Eastern Kentucky prepped for the changing economy. Other partners, like Interact of Louisville and Big Sandy Community and Technical College, are teaching laid-off coal workers and others what they need to know to get high-skilled jobs with companies like Bit Source, said Whitehead. Retraining of workers for jobs as electrical linemen and CNC (Computer Numeric Control) machining—a technology that is replacing tool and die—is also on track, as are job fairs that have landed Eastern Kentuckians jobs with companies like Toyota and R.J. Corman Railroad Company.

Whitehead said some training, like that offered to laid-off miners interested in CNC, has taken place outside of Eastern Kentucky. Although the training has paid off—six former coal industry workers trained in CNC at a program in Indianapolis now work for Lockheed Martin in Mt. Sterling—he told lawmakers that the goal is to keep most retraining in Eastern Kentucky.

"We don't want to send people to Indianapolis for that training, we want that training to be local," said Whitehead. "We want more people to participate."

Most funding for EKCEP so far has come from its H.O.M.E. (Hiring Our Miners Everyday) program and a nearly $7 million federal community impact grant for retraining of non-coal workers. Whitehead said the H.O.M.E. grant alone has provided around $16.3 million in national emergency grant funds to serve around 3,900 out-of-work coal industry workers and their families since 2012.

Of those approximately 3,900 people, Whitehead said around 1,772 have found work.

"There are a lot more people that we need to help, but we're proud of that," he said. "We're pretty proud that we've at least connected with nearly 3,900 people and provided them services."

The services EKCEP provides now are much different than those it provided when the agency first got started. At nearly half a century old, the agency has seen 23 Eastern Kentucky counties through both the fat and lean years of the coal industry, helping meet the needs of workers as the economy has changed. Today, more than a dozen state and federal employer and training programs are accessible to employers and jobseekers via the agency.

Natural Resources and Environmental co-chair Rep. Fitz Steele, D-Hazard, complemented Whitehead on the work of EKCEP, mentioning that the Kentucky Coal Association has been a partner it the agency's efforts.

"We have a partner in this room that is silent … and that's the Kentucky Coal Association. They work together well," said Steele.

Rep. Tim Couch, R-Hyden, reminded everyone on the committee that around 17,000 coal jobs have been lost in Eastern Kentucky. He said

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Minimum car insurance coverage drives panel's debate

by Jim Hannah
LRC Public Information

Concerned that the minimum auto insurance allowed under Kentucky law doesn't provide motorists with enough coverage for property damage, a panel of state lawmakers met in August to discuss whether legislative action was needed.

"The current limit seems to be sufficient to cover the vast majority of claims," Carl Breeding, representing the Property Casualty Insurers of America, said in testimony before the Interim Joint Committee on Banking and Insurance on Aug. 23. He cited industry research that found the average property damage liability claim in Kentucky was $3,467 – far below the current $10,000 limit.

Breeding said 22 states have property damage limits of $10,000 or less and four states have property damage minimums of $5,000. There are seven states at $15,000. Three are at $20,000. The remaining 19 are $25,000. He said only two states have made changes to property damage limits in recent years. Indiana and Kansas both will increase their limits to $25,000 from $10,000, effective next year.

"It is our opinion that raising the limits raises costs for insurance and ultimately will impact those most often struggling to afford basic coverage," Breeding said.

He said Kentucky already has a relatively high uninsured motorist rate despite some severe penalties for driving without insurance including fines of up to $1,000, 90 days in jail and license suspension. Breeding said the Insurance Research Council estimates 15.8 percent of all motorists tooling along Kentucky's roads are uninsured. The national rate is 12.6 percent.

Insurance Institute of Kentucky Executive Director Mark Treesh said raising the minimum coverage will cause premiums to rise. He said that will most likely increase the number of uninsured motorists.

"What you really face is a public policy decision," he said, adding that lawmakers will have to decide whether it is better for some to be underinsured instead of being uninsured.

Rep. Michael Meredith, R-Brownsville, asked how high premiums would go if lawmakers raised the mandatory minimum coverage for property damage to $20,000 or $25,000. Treesh said he couldn't cite specific figures but the increase "wouldn't be a lot" for motorists with good driving records. He said premiums for motorists with poor driving records would "rise quite a bit."

Meredith asked Treesh and Breeding to get him specific numbers.

"This is an issue that has been of concern to me," Meredith said. "As vehicles continue to increase in costs … this becomes a bigger and bigger problem. I think that is something we really need to take into account as we move forward because the economics of this is changing for all

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2017 REGULAR SESSION CALENDAR

JANUARY – PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3 Part I Convenes (1)	4 (2)	5 (3)	6 (4)	7
8	9	10	11	12	13	14
15	16 Martin Luther King, Jr. Day	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY – PART II

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7 Part II Convenes (5)	8 (6)	9 (7)	10 Last day for new bill requests (8)	11
12	13 (9)	14 (10)	15 (11)	16 (12)	17 Last day for new Senate bills (13)	18
19	20 Presidents' Day HOLIDAY	21 Last day for new House Bills (14)	22 (15)	23 (16)	24 (17)	25
26	27 (18)	28 (19)				

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

( ) Denotes Legislative Day

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 (20)	2 (21)	3 (22)	4
5	6 (23)	7 (24)	8 (25)	9 (26)	10 Legislative Holiday	11
12	13 Legislative Holiday	14 Concurrence (27)	15 Concurrence (28)	16 VETO	17 VETO	18 VETO
19	20 VETO	21 VETO	22 VETO	23 VETO	24 VETO	25 VETO
26	27 VETO	28 Legislative Holiday	29 (29)	30 SINE DIE (30)	31	

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Committee Meetings

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INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 3rd Meeting of the 2016 Interim

August 2, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Transportation was held on Tuesday, August 2, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll. The minutes of the Committee's July 5, 2016 meeting were approved.

Present were:

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

Guests: Jon Wilcoxson, Director, Division of Maintenance, KYTC; Lynn, Soporowski, Transportation Engineering Branch Manager, KYTC; Don Sammons, Police Chief, Raceland, KY; Senator Robin Webb; and Dixie Moore, bicycle safety advocate.

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

Transportation Cabinet Presentation: Maintenance Activities

Jon Wilcoxson, Director, Division of Maintenance, KYTC testified about the Transportation Cabinet's maintenance activities. Director Wilcoxson stated the major assets maintained by the Department of Highways include 63,500 lane miles of pavement, 9,016 bridges, 5,000 traffic signals/flashing beacons/school flashers, 25,000 roadway lighting fixtures, 550,000 traffic signs, 4,500 miles of guardrail, 200,000 acres of right-of-way (approximately 100,000 of which is mowed and maintained), 22 rest areas, and 14 weigh stations. KYTC manages fence repairs, barrier wall repairs, curb repairs, shoulder grades, and pollinator/wildflower issues. There has been a 6 percent increase in funding in the maintenance budget between 2005 and 2010. The increase was consistent with increases in material and contracting costs over the same period. The 1 percent increase since 2010 has not kept pace with inflation. The construction cost index since 2010 has averaged 5.1 percent per year.

The FY 2017 maintenance budget is $347.5 million. Of that amount, roadway maintenance is $275.6 million, rest area maintenance is $9.1 million, bridge maintenance is $25.3 million, traffic maintenance is $36.7 million, and new guardrail expense is $0.8 million. These figures do not include construction or resurfacing funding.

Rest area maintenance covers 22 rest areas (not including the Hart County rest area that was destroyed in a fire earlier this year), 14 weigh stations, 4 truck havens, janitorial and landscaping service contracts, utilities, and minor facility upkeep. New guardrail maintenance covers installation of new guardrails on state highways; priorities are based on severity. Guardrail maintenance is matched by the Highway Safety and Improvement Program; the funding total is $1.5 million.

Bridge maintenance totals $25.25 million, which includes deck replacement, structural steel repairs, expansion on joint repair/replacement, piers and other substructure repairs, painting steel structural members, and emergency repairs, but does not include major rehabilitation of bridges, which is funded by the highway plan. Traffic maintenance is budgeted at $36.7 million this fiscal year and consists of traffic signal installation, operations, and repairs, bridge navigational lighting, roadway lighting operations and maintenance, utility costs for all electrical installations, and new sign installation.

Roadway maintenance includes snow and ice response, tree removal and trimming, mowing, guardrail repair, landslide repair, weed control, pothole patching, slope protection, striping, litter/dead animal pickup, sweeping, ditching, crack sealing, drainage repairs, pipe/culvert repair, intelligent transportation systems, sign repair and replacement, and pavement markings.

Director Wilcoxson stated the historic spending on snow and ice removal averages approximately $60 million, with some years only seeing a cost of approximately $30-$35 million and some years seeing a cost of approximately $90 million. Snow and ice costs for 2015-

2016 consists of contract retrofit costs of $12 million, hourly contract costs of approximately $5.4 million, material costs of $21.1 million, KYTC equipment costs of $6.3 million, KYTC labor costs of approximately $19.5 million and emergency equipment rental costs of approximately $0.5 million, totaling a cost of $64.8 million. The contracts are for a seven year period. Contract costs are $90 per hour when the contract services are actually used. In the average year, $21.1 million in material cost is used, which includes the cost of salt, calcium chloride, and salt brine. During an average year, approximately 255,000 tons of salt is used. The cost of salt per ton is usually $70 to $80. There has been as much as 450,000 tons of salt used in a year.

Director Wilcoxson outlined a cost comparison between contract labor and KYTC labor efforts for snow plow costs. Costs of equipment and labor for contract workers to complete the job is approximately $17,400,000. The cabinet spends an additional $9,993,000 on equipment and labor costs for snow plows. There are approximately 60,000 total truck hours contracted for snow plows and snow removal, and approximately 127,403 total truck hours dedicated for snow plows and snow removal from KYTC. The cost per truck hour for contract jobs is approximately $290 per hour and $78 an hour for KYTC. These figures are preliminary. More research is needed to confirm all costs have been included.

The cabinet is reviewing snow and ice policies to identify opportunities for improved efficiency. It is focusing on reducing waste and ensuring priorities are properly addressed. The cabinet is increasing use of technology to improve performance and communication with the public.

Other major FY 2016 approximated costs include pipe/drainage/ditch repair at $34.3 million, mowing at $26.4 million, rock fall/landslide repair at $22.4 million, tree/brush cutting and removal at $21.0 million, pavement patching at $15.1 million, striping at $13.2 million, guardrail repair at $11.8 million, and pothole patching at $8.2 million.

Director Wilcoxson stated that major assets added over the past ten years include 2,125 lane miles of pavement, 174 bridges, and 252 miles of cable guardrail (with an approximate cost of $2 million per year to maintain.) There are 579 structurally deficient bridges on state routes, and there are 3,725 miles in need of resurfacing or replacement. This has increased from 1,710 miles in need in 2005. A structurally deficient bridge is one in which its deck, substructure, or superstructure has been rated a four or less on a scale up to nine. This does not mean the bridge is necessarily dangerous or an immediate hazard, but it means the deficiencies need to be addressed soon. There has been a reduction of structurally deficient bridges of about 10 bridges per year. Spending money for preventive maintenance saves money in future years.

Director Wilcoxson addressed issues related to hiring and retaining heavy equipment operators. There has great difficulty in hiring these workers, and many counties only have three to five workers. An example of hiring issues was demonstrated by a recent event needing 12 heavy equipment operators in Fayette and Scott counties. Approximately 130 people were contacted for an interview. Only 13 people agreed to an interview; of those, eight appeared, but only three people had a CDL. Jobs were offered to all 8 people in anticipation that those without a CDL would eventually obtain it before the end of employment probation. It is only expected that 2 of those positions will be filled, but it is possible that none will be filled. Because of the lack of heavy equipment operators, the response time for snow and ice removal is impacted. Director Wilcoxson said that his fear is that, when heavy equipment operators experience their first winter on the job, they will decide the pay is insufficient and may leave employment before the end of winter. The Personnel Cabinet is conducting a salary study that may address the heavy equipment operators' salary issues.

In response to a question asked by Senator Bowen about the ability to monetize the right of ways (harvesting timber and using those funds being for other governmental functions such a shoring up the pension fund), Director Wilcoxson stated that the idea has not been reviewed but could be researched. He is unaware of the complexities of what that would entail and the potential economic impact it would have.

In response to a questions asked by Representative Steele, Director Wilcoxson stated there are 14 weigh stations. He believes all are in operation, although some need improvement. A study is being conducted by the Personnel Cabinet, but he is unsure of the timeline for its completion.

In response to a question asked by Senator Wilson, Director Wilcoxson stated the length of contracts for different activities such as mowing, landscaping, and snow and ice removal varies. Not all contracts are for seven years. Many vendors were not able to obtain financing unless they could guarantee the banks that they had a sufficiently long guaranteed contract. Seven years may be longer than what is required, and that is being assessed.

In response to a question asked by Senator Wilson concerning the dramatic per hour cost difference between contract labor and KYTC labor per truck cost, Director Wilcoxson stated that he recognized there was a dramatic difference. The rate includes the hourly cost that paid to his division for equipment and its use, and includes the hourly cost for all operators' retirement and benefits. It does not include supplemental or administrative oversight that occur during snow, but it is the most direct comparison with contract costs.

In response to a question asked by Representative Mills concerning guardrail needs, Director Wilcoxson stated that priority is given based on the severity of the need, crash history, and location slope. In response to a question asked by Representative Mills concerning contract mowers, Director Wilcoxson stated that each district office has someone who administers and monitors the contracts. If there are issues, the district office handles the complaints.

In response to a question by Representative Mills concerning striping, Director Wilcoxson stated that, when the cabinet restripes a road, it is referred to as long line restriping that would cost less than a $1 per foot. On a smaller resurfacing project, the cost may be as much as $1 per foot. The paint type is the same, but a thicker and wider line is used on interstates and higher speed roadways, resulting in more paint used and a larger cost. Longevity of the striping has several variables. Striping may not last as long on a narrow road where people may drive on the center line more frequently. Striping may not last as long in eastern Kentucky due to coal dust. Director Wilcoxson stated he would forward Representative Mills' suggestion about providing salary adjustments for heavy equipment operators by using the Transportation budget funds to make those adjustments.

In response to a question asked by Representative Wuchner, Director Wilcoxson stated that delaying the mowing of the right-of-ways has been used as a money saving tactic. Medians continue to be mowed, but the sides of roadways will be mowed in the fall. Representative Wuchner also voiced her concerns about the amount of money landowners are spending for chemicals needed due to thistle and blooms blowing onto their farms and properties. Director Wilcoxson stated the mowing program is being investigated and may be changed.

In response to a question asked by Representative Wuchner, Director Wilcoxson stated the salary range for a Heavy Equipment Operator I is approximately $10.20 per hour, and $10.80 per hour after the probationary period is completed. He believes the salary range for a Heavy Equipment Operator II and III is between $15.00 to $17.00 per hour.

In response to a question asked by Senator Higdon, Director Wilcoxson stated the salary study that is being completed for heavy equipment operators is based on a 40 hour work week. Senator Higdon expressed frustration about excessive use of guardrail on certain projects while other projects have difficulty receiving the guardrail needed. Director Wilcoxson stated that old guardrail that may not meet current standards may be replaced when a new construction or certain maintenance projects are in progress.

In response to a question asked by Chairman Collins concerning reimbursement from a liable party's insurance company to replace guardrail after it has been damaged, Director Wilcoxson stated the cabinet tries to collect funds for repair from insurance companies after accidents occur. The cabinet may not always have the resources needed to track down those funds from insurance companies. Chairman Collins stated he believed it would be worth the cabinet's efforts to track and utilize insurance information.

In response to a concern St. Onge voiced about the cost of contracting out jobs, Director Wilcoxson stated contracts are put up for bid upon expiration.

In response to a question asked by Representative McKee, Director Wilcoxson stated the Hart County rest area is not in operation due to a fire. The cabinet is working to replace it. The rest area on I-64 in Montgomery County has been closed for several years due to sewer issues and structural problems with the building. The cost to repair the Montgomery County rest area is several million dollars. The rest area maintenance fund is only about $9 million per year.

In response to a question asked by Representative Meyer concerning the cabinet providing the ability for counties, specifically Jessamine County, to conduct in-house mowing, Director Wilcoxson stated that if some districts have the resources and the equipment to do accomplish in-house mowing, then that idea may be supported.

In response to a question asked by Senator Robinson concerning the difficulty in hiring heavy equipment operators, Director Wilcoxson stated he does not believe the lack of individuals hired is related to the use of drugs and drug testing possibilities. Rather, the low salary of a heavy equipment operator is related to the difficulty in hiring.

In response to a question asked by Chairman Harris, Director Wilcoxson stated the cost of guardrail is $30 per foot, or approximately $15,000 per mile. Chairman Harris inquired about the use of undercoating to strengthen bridges. Director Wilcoxson stated the undercoating is called CatStrong and is a relatively new tactic used to strengthen bridges. In response to a question asked by Chairman Harris concerning the use of the allegedly unsafe guardrails from a Texas company, Trinity Industries, Director Wilcoxson stated the testing that was completed on those guardrails from that company ultimately found that there was no adverse safety impact on the guardrails.

In response to a question asked by Chairman Collins, Director Wilcoxson stated the last mowing for the season will be between September and November depending on the area and weather conditions. The full width of the right-of-way along highways will be mowed at this time.

In response to a question asked by Chairman Collins, Director Wilcoxson stated the FE budget for this fiscal year is $347 million, which is approximately $25 million less than what was spent in the previous fiscal year. The cabinet was over budget last fiscal year. The cabinet has made some significant modifications to practices over the last several months to make sure that the budget was not greatly exceeded. The cabinet will continue to try to save money, and it will be a challenge and will depend on the severity of winter.

Bicycle safety

Lynn Soporowski, Transportation Engineering Branch, Division of Planning, KYTC, and Don Sammons, Police Chief, Raceland, spoke in favor of implementation of a bicycle safety law much like 2016 Senate Bill 80. The Transportation Cabinet looks at bicycle safety through the four Es: engineering, education, enforcement, and encouragement. The engineering portion has worked with cities and counties to find out where they have cyclists. Strava heat maps are utilized to find out where cyclists are prevalent. Because of technologies used, the cabinet has an idea of how wide the bicycle lanes should be and where they should be located. The cabinet has worked with bicycle clubs to encourage them to ride together. The cabinet has educated riders and walkers about bicycle safety as well as the drivers and how they should act around cyclists. The cabinet is approaching the enforcement portion of bicycle safety, which allows for officers to only ticket what they actually see occurring. The law requires a safe passing distance, and the proposed three foot law stated that a vehicle must pass a bicyclist by a three foot radius. Enforcement of the three foot law is important.

Don Sammons, Police Chief, Raceland, testified about the role he played in Raceland becoming a top bicyclist destination. Several communities now have bicycle lanes for cyclists to utilize due to the growing interest in bicycling. Because of the growing interest in bicycling, motorists, pedestrians, and children must be educated on how to handle sharing the road and how to respect different types of traffic on roadways. He has been working with Kentucky State Police to design a class on bicycle safety. Kentucky ranks 49th for bicycle friendliness due to lack of law enforcement training on bicycle safety and enforcement.

In response to a question asked by Representative Riggs, Ms. Soporowski stated the highway safety plan shows that bicycle accidents/fatalities have remained fairly consistent since 2010. In 2016, there has been one cyclist killed who was wearing a helmet and three cyclists killed without wearing a helmet.

Representative Jerry Miller stated that he is a bicyclist and realizes it is growing sport and a great way to attract tourists. He questioned the reasoning behind the encouragement for cyclists to ride in groups. Ms. Soporowski stated it is encouraged for cyclists to ride in groups due to the increased safety resulting from the predictability of the group versus a lone cyclist.

Chairman Collins voiced his concern about the danger a three foot passing requirement, especially on the rural roads of Kentucky.

Senator Robin Webb and Dixie Moore, bicycle safety advocate, spoke in favor of a bicycle safety law that includes the three foot radius requirement. Senator Webb complimented Police Chief Sammons and students of Raceland for their community involvement. Senator Webb stated her goal is to increase awareness about bicycle safety and to take the necessary steps to ensure cyclists, pedestrians, and drivers are all aware of the steps needed to ensure safety and to share the road. She said the Kentucky Driver's Manual mentions that the safe passing distance of three feet.

Ms. Moore, who is a commuter and recreational cyclist, echoed Senator Webb's comments and said that there have been five bicycle accident fatalities in Kentucky this year. She stressed the need for bicycle safety education and added the proposed bicycle safety law would do just that. Arkansas, Virginia, and West Virginia have a similar law, and there have been no issues concerning the implemented laws and narrow roadways. The current law states that a slow vehicle must not impede the reasonable flow of traffic. This means that, if someone needs to pass a bicyclist on a narrow road and but cannot, then it is the responsibility of the cyclist to pull to the side of the road to allow traffic to pass. Most cyclists are aware of the routes they like to travel and try to avoid dangerous roads. She advocated for share-the-road signs at appropriate locations. She said she has been asked to make a public service announcement on awareness of bicycle safety issues.

Senator Webb recognized KYTC and its efforts in bicycling and bicycle safety. Technology such as Go Pro would aide in the enforcement of a bicycle safety law. In response to a question asked by Representative McKee, Senator Webb stated that more bike lanes are being developed in metropolitan areas, where there is higher bicycle traffic.

Mike Sewell, commuter bicyclist from Louisville, spoke in favor of the proposed bicycle safety law. He cited the practical and economic advantages of being a cyclist. Mr. Les Stapleton, former Kentucky State Policeman and current Mayor of Prestonsburg, supports a proposed bicycle safety law. He stated tourism is a major factor in needing a bicycle safety law to attract bicyclists to small towns where the economy is in need of a boost. In the last two years, there has been an increase from 800 to 2,000 bicyclists per passing through Prestonsburg. The reasons behind the increase are recreational cycling, commuter cycling, and children enjoying bicycling. Mr. Sewell and Mr. Stapleton echoed Ms. Moore and Senator Webb's comments that education on sharing the road is necessary.

In response to a question asked by Senator Bowen concerning bicyclists riding in groups, Ms. Moore stated when bicyclists ride in groups they tend to divide up to make it easier for traffic to pass, making passing by a three foot radius still possible.

Representative St. Onge stated education is needed and that the proposed bicycle safety law would be a step in the right direction. Bicycling and bike trails would only further showcase the beauty of Kentucky.

Representative Jerry Miller stated he is supportive of the proposed bicycle safety law. He inquired of the possibility to make the law for roads that have center lanes due to the language in Senate Bill 80 from the 2016 Regular Session that references driving to the left of the center line in order to pass a bicyclist. Senator Webb stated she is open to discuss such accommodations.

The committee reviewed Administrative Regulations 600 KAR 1:031; 600 KAR 2:011; 601 KAR 1:032; 601 KAR 9:056; and 601 KAR 15:030. They were not found to be deficient and were not deferred.

With no further business, the meeting was adjourned at 2:57 P.M.

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

Minutes of the 3rd Meeting of the 2016 Interim

August 3, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Wednesday, August 3, 2016, at 2:30 PM, at the Boone National Guard Center. Senator Albert Robinson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Senators Perry B. Clark, C.B. Embry Jr., Ernie Harris, Christian McDaniel, Dennis Parrett, Mike Wilson, and Max Wise; Representatives Linda Belcher, Regina Bunch, Tom Burch, Larry Clark, Tim Couch, Ron Crimm, Jeff Greer, Kenny Imes, James Kay, Martha Jane King, Donna Mayfield, David Meade, Terry Mills, Tim Moore, Rick G. Nelson, Tom Riner, Dean Schamore, Rita Smart, Jeff Taylor, and Russell Webber.

Guests: Brigadier General Steven P. Bullard, Colonel (Ret.) Mike Jones, Executive Director Kentucky Air National Guard; John Holiday, Executive Director, Mike Sunseri, Public Outreach Legislative Liaison, and Ronnie Ball, Director of Emerging Threats and Emerging Trends, Kentucky Office of Homeland Security.

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

Minutes

Representative King moved to approve the July 14, 2016, meeting minutes. Representative Couch seconded the motion. The motion carried with a voice vote.

Kentucky National Guard and Department of Military Affairs Update

Brigadier General Steven P. Bullard, greeted members and guests and announced that the Adjutant General, Stephen Hogan, was called to Washington D.C.. He apologized that he could not be at the meeting. The Adjutant General will give the KY National Guard and Department of Military Affairs' update at the October meeting.

Kentucky Office of Homeland Security Update

Kentucky Office Homeland Security (KOHS) Executive Director, John Holiday, gave a PowerPoint presentation and update on KOHS. The PowerPoint presentation and other documentation are part of this official record in the Legislative Research Commission's Library.

Prior to becoming the executive director of KOHS, Mr. Holiday had previous military experience including U.S. Special Operations Forces Advisor to East Africa, executive officer for U.S. Special Operations unit, counterintelligence special agent, and experience in threat and hazard mitigation and intelligence operations. He served in state government as a certified inspector general and public protection director of law enforcement, and was appointed to his current position in February of this year.

Mr. Holiday indicated that KOHS is an all-hazards fusion center. Hazards are defined as man-made or natural, while a threat is man-made only. KOHS has collaborated with Michael Dossett, Executive Director of the Kentucky Division of Emergency Management, which is the operational or logistical piece of a hazard or event. KOHS receives information and intelligence from multiple entities. After making sure that the information is relative, timely, and accurate, KOHS produces intelligence reports for first responders in Kentucky and throughout the United States.

KOHS has clearly defined its mission in Kentucky, which is to identify all hazards that present threats to the Commonwealth. "KEVA" is a new acronym, coined to focus KOHS' mission, and it stands for a Kentucky Essential Vulnerability Asset. A KEVA is a critical facility service located in the Commonwealth and surrounding areas, the loss or disabling of which would have a catastrophic impact affecting one or more of the department's 16 identified critical infrastructure sectors in Kentucky.

Mr. Holiday said that his mission during his first six months as executive director and advisor for KOHS has been to reorganize the fusion center, streamline grant allocation protocol, have operational and strategic working groups, create a weekly threat brief to key leaders, have active aggressor and shooter training, create a vision beyond the current administration, develop a short, mid, and long-term strategies, and establish an enhanced public outreach and liaison network.

Approximately 70 percent of KOHS funding comes from federal funds and 80 percent of federal dollars go to Kentucky communities for homeland security grants. In FY 2017, there is a potential of a 55 percent reduction of funds awarded from the United States Department of Homeland Security even though there is still a great need for communication, first responder equipment, physical, and cybersecurity equipment.

Mr. Holiday discussed the Law Enforcement Protection Program, which he characterized as a successful program. Eighty percent of funds, mostly from the sale of confiscated firearms, have been granted to city, county, and state programs.

Mr. Holiday described the Kentucky Intelligence Fusion Center, which deals with international terrorism, cyberthreat analysis, real-time social media analysis, domestic terrorism, organized crime, geospatial analysis, and many critical infrastructure sectors. KOHS is the only agency that connects on local, state, and federal levels. KOHS has supported 49,000 first responders. It is KOHS's mission to ensure that front line responders are able to securely perform their duties. Terror attacks are the "new normal" around the world. There have been 22 terror attacks from January 15, 2016 through July 16, 2016, and global terrorism is close to home. There are ISIS investigations in all 50 states, and there are more than 1,000 individuals with connections to terrorism. Since 2014, 92 individuals have been charged in the United States, and nearly 70 terrorist plots have been foiled since the 9/11 attack.

Current information shows that the most likely threat for Kentucky, based on KOHS analysis with state, local, and federal homeland security partners, historical data, and current trends, would be home grown violent extremists, military grade weapons or high powered rifles, improvised explosive devices, and readily available communication equipment and social media. Mr. Holiday indicated that Kentucky's strategic critical vulnerabilities are not having a single statewide interoperability system, not having a single statewide public radio system, the lack of 911 system funding, and limited resources for evolving threats or hazards.

Mr. Holiday said that he is concerned about how to do more with less, how to keep pace with an ever-evolving threat environment, whether KOHS is applying lessons learned, whether first responders have adequate resources, and whether Kentucky can overcome divisiveness to solve problems. He hopes to have transparency and visibility to accomplish an increased awareness of KOHS functions, track all issues that affect public safety and well-being of the Commonwealth, develop Kentucky's homeland security strategy, allocate grants based on critical need, support and partner with entities seeking to mitigate threats and hazards, and unify common visions that affect everyone in order to do everything possible to respond to all threats.

In response to a question from Representative Moore, Mr. Holiday said that he has SCI clearance if were to be a threat to the Commonwealth or surrounding areas.

In response to a question from Representative Burch, Mr. Holiday said that Kentucky's interoperability is not sufficient for a catastrophe.

In response to a question from Representative Belcher, Mr. Holiday requested that legislators educate constituents about KOHS, and he wants legislators and stakeholders to visit and learn about the fusion center.

In response to a question from Representative Smart, Mr. Holiday said that military bases have their own strategic planning. The fusion center works with Fort Campbell and Fort Knox if needed.

Other Business

Brigadier General Steve Bullard invited members to tour the new Emergency Operation Center or the new state-of-the art Army Aviation Storage and Command Facility.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 3rd Meeting of the 2016 Interim

August 15, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Education was held on Monday, August 15, 2016, 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, Jared Carpenter, Danny Carroll, David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Gerald A. Neal, Johnny Ray Turner, Stephen West, and Max Wise; Representatives Linda Belcher, George Brown Jr., Regina Bunch, Hubert Collins, Jeffery Donohue, David Hale, Cluster Howard, James Kay, Brian Linder, Mary Lou Marzian, Donna Mayfield, Reginald Meeks, Charles Miller, Ruth Ann Palumbo, Marie Rader, Jody Richards, Tom Riner, Sal Santoro, Rita Smart, Wilson Stone, David Watkins, Addia Wuchner, and Jill York.

Guests: Representatives Joni Jenkins and Arnold Simpson; George Hruby, Executive Director of the Collaborative Center for Literacy Development, University of Kentucky; Wayne Young, Executive Director and General Counsel, Kentucky Association of School Administrators; Erin Klarer, Kentucky Higher Education Assistance Authority; Bob Rowland, Impact Government Relations; Mardi Montgomery, Education and Workforce Development Cabinet.

LRC Staff: Jo Carole Ellis, Janet Stevens, Joshua Collins, Yvette Perry, and Maurya Allen.

Representative Collins made a motion to adopt the minutes of the July 18, 2016, meeting, seconded by Representative Donohue. The motion passed by voice vote.

Reports from subcommittee meetings

Senator Alice Forgy Kerr, presiding Co-Chair for the Subcommittee on Postsecondary Education, reported on the subcommittee meeting about Colorado's Career Pathways Program and the potential impact a similar program in Kentucky could have on career and technical education.

Senator Danny Carroll, presiding Co-Chair for the Subcommittee on Elementary and Secondary Education, reported on the subcommittee meeting about Kentucky's special education program in public schools and ways to meet the needs of special education students.

Every Student Succeeds Act

Kentucky Department of Education Commissioner Stephen Pruitt and Ms. Rhonda Sims, Associate Commissioner, Office of Assessment and Accountability, began their presentation on the Every Student Succeeds Act (ESSA) with an overview of its history. The Elementary and Secondary Education Act (ESEA) originally passed in 1965 as part of the war on poverty. This Act was amended in 2001 to include the No Child Left Behind (NCLB) provisions that were repealed and replaced with ESSA in 2015. ESSA is intended to limit the United States Education Department (USED) Secretary's authority, provide more state and local control, end state NCLB waivers, be less prescriptive, and create a more meaningful accountability system for students, parents, and educators.

Ms. Sims discussed the impact of proposed ESSA regulations on accountability measures. To meet the proposed federal requirements, state-determined accountability measures must include four academic indicators which are proficiency on state tests, progress on English language proficiency for ELL students, student growth or other academic indicators for elementary and middle school students, and graduation rates for high school students. Accountability standards must also include a measure of school quality and student success and have a participation rate of no less than 95 percent overall. Individual subgroup reporting is also necessary to focus on gap closure. Weighting will be determined by the states but academic factors will count more than measures of school quality or student success. Ms. Sims noted that the state must establish ambitious long-term goals and each year will need to meaningfully differentiate schools and identified student populations based on the performance on indicators. Finally, the proposed ESSA accountability regulations maintain a requirement for state and local report cards with emphasis on disaggregated data and some expanded reporting requirements.

Commissioner Pruitt discussed the Town Hall meetings he held in all areas of the state last year in order to better understand the perspectives of all education stakeholders. Over the course of seven weeks, he attended 11 meetings, which had a combined attendance of 3,000 individuals representing teachers, administrators, parents, students, legislators, student support service staff, school board and council members, community members, and education partners. He has continued to receive comment via email from those who attended or could not attend. Because the response was so favorable and so useful, he has decided to hold similar Town Hall meetings in the coming year.

Some of the themes Commissioner Pruitt noted from the Town Hall meetings were that children must be at the heart of the system;

a well-rounded education is important and necessary; and tall subjects, both tested and non-tested, need to be valued by accountability measures. Access and opportunity for all students was critical as was an emphasis on teaching. Collaboration, rather than competition, between schools and districts needs to be a focus going forward and has informed his perspective toward the proposed ESSA regulations. He said he had testified before Congress, speaking to the House Committee on Education and the Workforce, on June 23, 2016, and the Senate Committee on Health Education, Labor, and Pensions on July 14, 2016. His testimony centered on his concerns with the proposed ESSA regulations and the impact they could have on states' accountability systems.

He believes there are restrictions in the ESSA proposals that are contrary to the design of ESSA toward allowing creativity, innovation, and supporting the sovereignty of states to govern their own education policies. He highlighted the language that is more prescriptive than the law, specific data calculations that will likely over-identify schools for support, a timeline that is too fast and requires states to identify schools for improvement based on current accountability systems not the new measures, and a requirement for a summative score. Commissioner Pruitt said that all the proposed regulations are available online for review, but the period for comment has passed. He has asked the USED to publish the timeline for implementation prior to final adoption to allow states more time for better planning.

Ms. Sims presented the process for developing Kentucky's accountability system. There will be five work teams on college and career readiness, assessment, opportunity and access, school improvement, and educational innovations. These filter ideas to three larger groups focused on systems integration, regulatory review, and consequential review. The consequential review group is a unique group that will focus specifically on what the unintended consequences, both good and bad, of proposed changes might be. An overarching steering group comprised of roughly 40 members will collect all the information and inform the commissioner's statements to the Kentucky Board of Education. The guiding principles for the system will reflect the themes identified during the Town Hall meetings and include a focus on student welfare; holistic quality education for all students; and equity, achievement, and integrity. The new system must be simple and easy to understand, ideally reported in a dashboard which better illustrates school/district progress or deficits than a single number. There is a very aggressive timeline for development aiming to provide a system plan to the USED by May 2017.

Chairman Graham agreed that the design of ESSA was to give states more flexibility but that the regulations appeared to reduce that flexibility considerably. He asked if Commissioner Pruitt had received support when he had voiced these concerns to Congress. Commissioner Pruitt said that there was a very supportive reception to his remarks from Senator Rand Paul and Representative Brett Guthrie. It was agreed that the regulations are far too complex and too reminiscent of the NCLB provisions.

Representative Meeks asked what proposals were going to address the achievement and opportunity gaps in the current educational system. Commissioner Pruitt said that there were groups currently investigating that issue and developing solutions. Being considered are a reward system for schools that better addresses opportunity gaps and a penalty for those which do not address them at all.

Representative Meeks asked which regulations the Kentucky Department of Education had recently repealed and why. Commissioner Pruitt said that the repealed state regulations were largely those that had become outdated, such as those regarding the Commonwealth Diploma. Others repealed were those that had been combined into another regulation or had become redundant.

Chairman Graham commented on the innovative approach the business community in Louisville had undertaken to address the opportunity gap for students and suggested that it might be a model to follow in other parts of the state.

Representative Stone referenced recent improvements in Kentucky's workforce development and graduation rates. He asked if there was an attempt to bring college and career ready scores into alignment with other measures and whether improving test scores had improved the number of college and career ready students. Commissioner Pruitt said that the assessment committees are considering industry certifications as well as traditional academic measures when making their recommendations. There is an effort to become more comprehensive about what constitutes success in the classroom by acknowledging career certifications.

Senator Neal stated that he appreciated the focus on the achievement gap, which had not historically received adequate attention from the department. Commissioner Pruitt admitted that was probably true and is a motivating factor behind a dashboard reporting system where achievement gaps can be brought to light. He stressed his desire to focus on equity and access not just in schools but in teaching and in the workforce.

Senator Wilson agreed that it was very easy to disguise achievement gaps in a summative score. He asked if research had been done to include industry in the steering committees. Commissioner Pruitt said that a great deal of emphasis had been placed on what was most meaningful to industry partners. Additionally, members of the business community were represented in the membership of the advisory groups.

Representative Meeks expressed concern that there were only 262 comments during the Town Hall meetings and that the Commissioner had based his statements on such a small sample size. Commissioner Pruitt responded that that number was representative only of those who spoke aloud during the Town Hall meetings. It did not include those who had addressed him privately or in other smaller meetings, and it did not reflect the many online responses he had received and continues to receive. As the process continues, he plans to put the accountability system online to allow for continuous input.

Governor's Scholars Program

Dr. Aristófanes Cedeño, Executive Director and Academic Dean, Governor's Scholars Program (GSP), testified about the history and value of GSP. The program was created in 1983 but has always received its budgetary appropriation in the quarter after actual expenditure. This has presented some unique challenges in estimating how much money is needed every year and how many scholars will be able to participate. In 2016, Northern Kentucky University, Murray State University, and Morehead State University served as hosts, representing the first year when all host sites were state universities.

Because of a small reduction in funding, only 1,060 scholars attended the program in 2016 versus the 1,113 scholars in 2015. They represented 118 of the state's 120 counties. Unfortunately, there was still an underrepresentation of minority groups, which is largely based on an underrepresentation in applications. The program has a merit-based acceptance policy, which includes extracurricular merit in addition to school grades. Approximately 80 percent of scholars choose to attend a college in Kentucky, and many of those will choose a career in Kentucky upon graduation. This is credited to the partnership between GSP and Kentucky's colleges and universities to create scholarships for GSP alumni.

GSP considers itself a program to develop confidence and leadership skills in the best and brightest of Kentucky high school juniors. During the five-week program, which is completely free to scholars, there are no grades but a focus on collaboration and exploration of ideas. The program has been working to better reach minority students, largely by increasing awareness among parents and in underserved populations. Dr. Cedeño thanked the legislature for its continued support and asked for assistance in continuing the mission of the program.

Senator Higdon commented that GSP is outstanding. He always receives wonderful testimony from scholars, specifically a recent scholar who had visited Lockegee Rock on Clack Mountain near Morehead State University, his alma mater, which he had never considered an academic location. Dr. Cedeño emphasized that the program is not strictly academic but focuses on the intellectual abilities of the scholars and seeks to expand their worldview. Senator Higdon agreed that the site could do that for any individual.

Representative Palumbo asked about the process for assigning a student to a campus. Dr. Cedeño said that the goal is to make each campus reflective of the population of the state as a whole. If 28 students are accepted from a school, such as was the case for Manual High School in Louisville, then approximately nine are assigned to each of the campuses. However, students are also assigned based on class offerings. The mission is to allow students to experience viewpoints that may be different from their own.

Representative Palumbo, referencing the handout illustrating the GSP regions, asked if Jefferson County is its own region. Dr. Cedeño said that it is, due to the large density of students.

Representative Marzian commented that, in her experience, the scholarships provided to scholars to attend state colleges and universities are important. She asked about the appropriation necessary to increase the number of scholars. Dr. Cedeño said that the most recent budget cut resulted in approximately 80 fewer accepted scholars in 2016. This would have made the total number of scholars approximately 1,120, which would be the total number of qualified applicants each year on average. Beyond that, accepting more students would be a disadvantage to the students as they would not be as well qualified for the rigor of the program.

Representative York said that she had recently met a scholar for lunch and received a wonderful testimonial to the value of the program. The program was a transformative experience for the student, and it showed in the student's recounting of her experience. Dr. Cedeño said that the confidence GSP instills in scholars is one of the best advertisements for the program.

Representative Miller echoed the other members' pride and appreciation for the program. He stated that the legislature should do everything it can to increase the reach of the program to more students. Dr. Cedeño thanked him for his support and recognized the former scholars who were present, including his executive assistant Cody Cook, a scholar from Representative Miller's district, who attended Centre in 2009.

Chairman Graham asked for a summary of the application process. Dr. Cedeño said that applications are first received by high school guidance counselors, and a local group decides which applications to forward to the state review committee based on a school/district quota. The quota is reflective of the number of juniors enrolled in that school/district. The application includes academic records, community service, extracurricular activities, honors and awards, recommendation letters from a teacher and a community member, and a personal essay. State decision-making teams, consisting of three individuals each, review each section of the application individually and provide a score for their assigned section. The applications with the highest aggregate score are those that are accepted. The numbers of males and females accepted are different based on the number of beds available for each sex at the host locations based on a historic ratio of 40 percent males to 60 percent females.

Senator Carroll asked if there were any plan to reach out to private industry to increase funding to the program or to compensate for budget cuts. Dr. Cedeño said that the program already raises approximately 25 percent of its funding from private sources. Past data analysis has shown that the cost per scholar is approximately $2,500 for the full five week program. He cautioned, however, that this is based on the very generous support from host colleges and universities, which bid for the program and generally provide some discounts on room and board costs.

There being no further business, the meeting was adjourned at 3:00 p.m. The next meeting will be September 12, 2016, at 1:00 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 2nd Meeting of the 2016 Interim

August 1, 2016

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Monday, August 1, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Rick Rand, Co-Chair; Senators Danny Carroll, Chris Girdler, David P. Givens, Stan Humphries, Morgan McGarvey, Dennis Parrett, Wil Schroder, Brandon Smith, Robin L. Webb, Stephen West, and Max Wise; Representatives Linda Belcher, John Carney, Ron Crimm, Mike Denham, Bob M. DeWeese, Jeffery Donohue, Myron Dossett, Kelly Flood, Jim Glenn, Joni L. Jenkins, Martha Jane King, David Meade, Terry Mills, Brad Montell, Marie Rader, Bart Rowland, Steven Rudy, Sal Santoro, Dean Schamore, Arnold Simpson, Rita Smart, Jim Stewart III, Wilson Stone, Tommy Thompson, Tommy Turner, David Watkins, Susan Westrom, Addia Wuchner, and Jill York.

Guests: Steve Michael, Founder and Principal, Hudson Holdings; Craig Potts, Executive Director, Kentucky Heritage Council and State Historic Preservation Officer; Renee Kuhlman, Government Relations and Policy Specialist, National Trust for Historic Preservation; John Chilton, State Budget Director; Janice Tomes, Deputy State Budget Director; Greg Harkenrider, Deputy Executive Director for Financial Analysis

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

Approval of Minutes

Senator Parrett made a motion, seconded by Representative Crimm, to approve the minutes of the November 16, 2015 and June 23, 2016 meetings. The motion carried by voice vote.

Historic Preservation Discussion

Steve Michael with Hudson Holdings testified about, from a developer's viewpoint, the use of historic tax credits and the benefits of rehabilitating historic buildings into functioning properties.

Mr. Michael explained that the process by which a developer would rehabilitate a property includes purchasing the under developing property, spending approximately five to ten times that amount in rehabilitation costs, resulting in hotels, apartments, retail restaurants, and other types of properties that bring revenue and life back to under-developing historic neighborhoods.

Renee Kuhlman explained that there are 33 states that offer historic tax incentives. Historic tax credits are on the rise with 12 states enacting or expanding their tax credits since 2011. The percentage of expenses allowed as a credit varies. In Kentucky, there is a 20 percent credit, but due to the proration process, the credit is approximately nine to ten percent with an annual program cap of $5 million and a project cap of $400,000. Historic tax incentives can be a catalyst for new business, new residents, and the possibility of new jobs and higher property values in areas that have been underdeveloping.

In response to a question from Representative Stone, Mr. Michael explained that the Starks Building in downtown Louisville that is being renovated will be converted into a 235 room hotel, with 120 apartments above the hotel. There will be a lobby with a bar and restaurant and, on the penthouse level, there will be another restaurant and bar. There will be a full service health club and spa in the basement. After many studies, there was determined to be only one other spa in Louisville.

In response to a question from Representative Montell, Mr. Potts explained that the historic tax incentive is an income tax incentive. The incentive is a dollar for dollar tax reduction in income tax, and banks can use this incentive for bank franchise tax.

In response to a question from Senator Givens, Ms. Kuhlman stated that most other states that have incentives do not have a credit cap. This feature of the other states will impact future year budgets for states. A state will budget for those future incentives by looking at the prior usage to determine the possible fiscal impact.

Budget Review and Update for end of Fiscal Year 2014-2015

John Chilton, State Budget Director, Janice Tomes, Deputy State Budget Director and Greg Harkenrider, Deputy Executive Director for Financial Analysis, reviewed the budget and revenues for Fiscal Year 2015-2016 (FY 16), and the financial outlook for Fiscal Year 2016-2017 (FY 17).

Mr. Harkenrider said that actual general fund receipts for FY 16 exceeded the official estimate by 0.5 percent, generating a revenue surplus of $48,984,795. The growth in receipts was driven primarily by the individual income tax and sales tax. These taxes provide the most elastic sources of revenue.

Mr. Harkenrider reported that many of the remaining general fund revenue sources fell during the year. The underproducing areas included coal severance, cigarette taxes, and limited liability entity tax (LLET).

Mr. Harkenrider said that, overall, general fund revenue growth rate for FY 16, compared to the prior year, was 3.7 percent. Even with that overall growth, the General Fund revenue sources, other than individual income and sales taxes, fell a collective $35.7 million.

The individual income tax (IIT) withholding grew by 4.8 percent, estimated payments grew by 10.2 percent, and the overall growth in FY 16 was 5.2 percent, after 8.5 percent growth in FY 15. The IIT contributed $212.6 million of the total $372.3 million in nominal General Fund growth.

Mr. Harkenrider stated that the sales tax growth in FY 16 was 6 percent following a 4.4 percent growth in FY 15 and a 3.6 percent growth in FY 14. The 6 percent mark in FY 16 was the highest growth since FY 06. The sales tax contributed $195.4 million of the total General Fund growth. Sales tax growth in excess of income growth is not sustainable.

Director Chilton explained the Governor's Budget Stabilization Plan, the total planned lapse was $52,924,400, and the actual lapsed amount was $52,313,600, which is a difference of $610,800. This difference comes from $478,000 from the Attorney General's office, $112,000 from the Department of Agriculture, and $20,800 from the Executive Branch Ethics Commission.

Janice Tomes discussed how the revenue surplus was determined. General Fund revenues in excess of the official estimate equaled $49.0 million. After accounting for necessary government expenses (NGEs) of $4.1 million, spending less than budgeted $2.5 million, fund transfers less than budgeted of ($2.7 million), and small reductions in other areas the general fund surplus equaled $52.7 million.

Director Chilton explained that pursuant to the General Fund surplus expenditure plan contained in 16 RS HB 303, the current state budget, $26.4 million of that total will be held for the Budget Reserve Trust Fund in FY 17. This leaves a total of $26.4 million to be deposited into the Kentucky Permanent Pension Fund.

Ms. Tomes discussed tobacco fund revenues for FY 16, which when enacted totaled $98 million and including the current year appropriation and additional receipts the FY 16 total revenue was $123,257,800. The budget bill sets forth how the additional receipts will be allocated, with 50 percent to the agricultural development fund, 36 percent to early childhood, and 14 percent to the healthcare improvement fund.

Mr. Harkenrider testified on FY 16 road fund revenues, which also had a surplus of $36.6 million, or 2.5 percent above the revised estimate. Even though there was a surplus, the difference between FY 15 and FY 16 resulted in a difference of negative $44.2 million. Receipts still fell but were above the estimate.

Mr. Harkenrider stated that the motor vehicle usage tax receipts were up in FY 16, and that, even with the trade-in allowance for new vehicle purchases, revenues still totaled $484.4 million. Motor fuels came in slightly higher than the estimate at $750 million, and motor vehicle license revenues was up with actual revenues at $113.1 million.

Mr. Harkenrider explained that the motor fuels tax rate that was in effect for all of FY 16 was 26 cents, of which 19.6 cents was the variable rate driven by a statutory formula. After the floor was frozen, the rate will remain at 19.6 cents until the wholesale price reaches $2.17 a gallon, which would require the pump price to reach $2.80 to $2.90 a gallon sustained for a period of time. The rate can only be changed once per year.

Ms. Tomes explained that the road fund had a surplus of $38 million, which statutorily is required to be deposited into the state highway construction account.

Mr. Harkenrider discussed the outlook for FY 17. The consensus forecasting group in December called for growth of 3.2 percent, but due to receipts in excess of the revenue estimates in FY 16 growth needed to hit the FY 17 estimate, falls to 2.7 percent. Nationally, the United Kingdom's exit from the European Union will continue to have a small negative impact on the U.S. economy via trade channels. Uncertainty in the UK leads to a weaker UK currency against the U.S. dollar. A strong dollar leads to a weaker demand for US exports, which is a concern for Kentucky's economy. Professional forecasters and economic experts have consistently lowered their forecasts for GDP growth to around 2 percent.

Mr. Harkenrider said FY 16 was a very favorable year for the Kentucky economy, but it is not immune from external shocks. The Kentucky Cabinet for Economic Development recently expressed concerns about export growth due to the strong dollar and weaker international economies. The UK has traditionally been the Commonwealth's second-largest destination for exports. Aside from export concerns, economic conditions remain fairly solid.

In response to a question from Chairman Rand, Director Chilton stated that the interpretation of 16 RS HB 303 and the formula contained therein on what to do with the budget surplus gives the state authorization to apply the carryover from FY 16 to FY 17. Ms. Tomes explained that the budgeted lapse in FY 16 debt service is $43.3 million.

In response to a question from Chairman McDaniel, Mr. Harkenrider explained that, to avoid any possible downfall when the sales and use tax fails to perform, as much as possible should be deposited into the budget reserve during a good economy to give a buffer when things are not as good.

There being no further business, the meeting was adjourned.

TOURISM DEVELOPMENT

Minutes of the 2nd Meeting of the 2016 Interim

August 15, 2016

Call to Order and Roll Call

The 2nd meeting of the Interim Special Committee on Tourism Development was held on Monday, August 15, 2016, at 10:00 AM, at Woodford Reserve Distillery . Representative Rita Smart, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Rita Smart, Co-Chair; Senator Morgan McGarvey; Representatives James Kay, Jerry T. Miller, Darryl T. Owens, and John Short.

Citizen Members: Vicki Fitch, Janette Marson, Lori Saunders, Prakash Maggan, and Mitchell Pearson.

Guests: Chris Morris, Master Distiller, Woodford Reserve Distillery; Kristin Meadors Baldwin, Director of Governmental Affairs, Kentucky Distillers' Association; and Seth Wheat, Office of Adventure Tourism.

LRC Staff: Karen Brady, John Buckner, and Chip Smith.

Welcome and Overview of Woodford Reserve Distillery

Chris Morris spoke about the history of the distillery, where distilling began in 1812. The distillery has had multiple owners over its lifetime and was last sold in 1940 to Brown Foreman, Woodford Reserve's parent company. The distillery has been closed numerous times throughout the years for a variety of reasons. In the late 1980s, Owsley Brown had a vision to develop a new Kentucky bourbon that has its own home, and for this home to be open for tourism and visitors. This vision of a new brand led to present day Woodford Reserve. In 1996, the distillery visitor center opened for the first time. Mr. Morris stated that many industry experts agree that it was Mr. Brown's vision that was the spark that returned bourbon to the popularity that it enjoys today, and the foundation for the Kentucky Bourbon Trail.

According to the *International Wine and Spirits Register*, Woodford Reserve is the number one selling super premium Kentucky bourbon in the world, and is also in the top five super premium whiskeys in the world. Mr. Morris said that the brand is continuing to grow. Woodford Reserve Double Oaked, the recent entry into the ultra-premium whiskey category, is now the number one selling ultra-premium Kentucky bourbon in the world.

Within the last two years, the distillery has also introduced Woodford Reserve Rye, which it has high aspirations for. Mr. Morris stated that it is a very exciting time for the bourbon industry.

Kentucky Bourbon Trail

Kristin Baldwin stated that the mission of the Kentucky Distillers' Association is to passionately and responsibly unite, promote, protect, and elevate Kentucky's signature bourbon and distilled spirits industry. KDA has 28 members.

Kentucky makes 95 percent of the world's bourbon. The most recent economic impact study shows Kentucky bourbon is a $3 billion industry and that the workforce has doubled since 2012 with over 15,000 employees. Bourbon production has increased 315 percent since 1999. Total bourbon inventory topped 6.7 million barrels in 2015, the highest since 1974.

Kentucky's spirits exports have grown by 99 percent since 2009. In 2015, Kentucky bourbon and Tennessee whiskey exports to more than 126 countries topped $1 billion.

There are seven different taxes on every bottle of spirits in Kentucky, with nearly 60 percent of the price of every bottle going to taxes.

The Kentucky Bourbon Trail was started in 1999. KDA created it to give visitors a first-hand, intimate, and educational experience into the art and science behind crafting the world's finest bourbon. KDA launched the Kentucky Bourbon Trail Craft Tour in 2012 to showcase the state's micro-distilleries. There are nine distilleries on the Kentucky Bourbon Trail and 11 on the Craft Tour.

The bourbon trails are experiencing record-breaking growth. Last year, the Kentucky Bourbon Trail had 762,009 visitors, and an additional 133,864 traveled to the Kentucky Bourbon Trail Craft Tour. Visitors came from all 50 states and more than 50 countries. Eighty-five percent of visitors are from outside Kentucky, and seventy-five percent came to Kentucky just for the Kentucky Bourbon Trail experience.

The official sponsor for the Kentucky Bourbon Trail is Louisville, and it also serves as the official gateway. Official trailheads are Lebanon, Lexington, Bardstown, and Shepherdsville.

The Kentucky Bourbon Trail partners with numerous events. One is the Bourbon Chase, an annual overnight relay race to Kentucky Bourbon Trail distilleries. This event has sold out in all of its six years, and consists of over 400 teams with an average of 12 participants per team. Another event is Bike the Kentucky Bourbon Trail, which provides scenic bike routes to all member distilleries. The Kentucky Bourbon Affair is a six day bourbon fantasy camp that provides participants with unique day events and rare insider access at KDA distilleries, and nightly events with distilleries in Louisville to showcase the city's bourbon culture and cuisine.

Other KDA sponsored projects are Kentucky Bourbon Tales, the Kentucky Bourbon Festival, the Stave & Thief Society, and an exhibit at the Frazier History Museum entitled *Spirits of the Bluegrass: Prohibition and Kentucky*.

Ms. Baldwin discussed Senate Bill 11, which passed in the 2016 legislative session. SB 11 grants distilleries the ability to apply for a "nonquota type 3" (NQ3) license, which allows by the drink sales of all types of alcoholic beverages, raises the limit for bottle sales at distilleries from 3 liters to 4.5 liters per visitor, per day, and increases free samples of distilled spirits from 1 ounce per visitor to 1.75 ounces total per visitor. Eight distilleries have the NQ3 license, and many others are in the application process.

With the passage of Senate Bill 11 and the skyrocketing growth of the Kentucky Bourbon Trail, KDA created a task force to focus on strengthening the industry's commitment to responsibility.

Responding to a question from Representative Miller, Ms. Baldwin stated that KDA has taken a formal position on its opposition to wine in grocery stores.

Responding to a question from Senator Girdler, Ms. Baldwin spoke about the partnership between KDA and the Economic Development Cabinet and how they work together when new distilleries are looking to open.

Trail Towns

Seth Wheat stated that the mission of Kentucky Adventure Tourism is to promote and develop opportunities for outdoor adventure throughout Kentucky by partnering with public and private entities to foster economic growth and physical health, with increased access to Kentucky's vast natural resources.

Mr. Wheat discussed the Cross Kentucky Master Trail Plan, which is a statewide trails initiative that was released last summer. The plan's purpose is to outline potential long distance connector trails all throughout the state.

The main reasons why the Kentucky Trail Town program was developed are economic impact, health benefits of outdoor recreation, and quality of life in the communities of trail towns. A trail town serves as a portal to a trail system, provides needed services to trail users, has knowledgeable staff, and reflects its culture.

The process for becoming a trail town is a local, grassroots initiative. The mayor's office is the official applicant. There are 14 certified Kentucky Trail Towns, and over 40 applications in process.

There being no further business before the committee, the meeting was adjourned at 11:36 a.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Third Meeting of the 2016 Interim

August 17, 2016

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 17, 2016, at 9:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 9:04 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Tom Burch, Co-Chair; Senators Ralph Alvarado, Danny Carroll, David P. Givens, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, and Max Wise; Representatives

Robert Benvenuti III, George Brown Jr., Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, Darryl T. Owens, Russell Webber, Susan Westrom, and Addia Wuchner.

Guests: Ardis Hoven, M.D., Medical Consultant, Department for Public Health, Cabinet for Health and Family Services; Justin Carey, Health Environmentalist, Department for Public Health, Cabinet for Health and Family Services; David Wayne, Environmental Services Director, Department of Agriculture; Dr. Grayson Brown, University of Kentucky Department of Entomology; William Crump, M.D., Associate Dean, University of Louisville School of Medicine Trover Campus, Madisonville, Kentucky; Austin Beck, M.D., Madisonville; Samantha Hays, third-year Trover medical student; Mary Hass, Advocacy Director, Brian Injury Alliance of Kentucky (BIAK); Diane M. Schirmer, Medical Director of Brain Injury Services, New Vista Health, Inc., Lexington; Linda M. Klawitter, MA, CCC/SLP Speech-Language Pathologist, Newcare ADT Program, Louisville; Jennifer Hornback; Alex Nauert, Military Outreach Coordinator, Brain Injury Alliance of Kentucky; Eddie Reynolds, Program Director/Outreach Coordinator, Brain Injury Alliance of Kentucky; Laura Begin, Department for Public Health, Cabinet for Health and Family Services; Tamara McDaniel and Peggy Lucy Moore, Kentucky Board for Respiratory; Chell Austin, Brain Injury Alliance of Kentucky; Richard Morris and Brenda Bowman, CCAK; and Ned Sheehy, AccuTran Industries, Inc.

LRC Staff: DeeAnn Wenk, Ben Payne, Jonathan Scott, and Gina Rigsby.

Consideration of Referred Administrative Regulations

The following administrative regulations were on the agenda for consideration: **201 KAR 9:250** – establishes the requirements for registration and oversight for pain management facilities by the Kentucky Board of Medical Licensure;**201 KAR 29:015** – establishes all fees for mandatory certification and to periodically review and modify those fees charged by the Kentucky Board of Respiratory Care; **201 KAR 46:020** – establishes fees for the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator; **201 KAR 46:070** – establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator and penalties for violation of licensure requirements; **902 KAR 4:120** – establishes the eligibility criteria, services, provider qualifications, and hearing rights for participants of the Health Access Nurturing Development Services (HANDS) Program; **902 KAR 100:030** – establishes quantity requirements for the labeling of radioactive material licensed under 902 KAR Chapter 100;**902 KAR 100:080** – establishes a list of quantities of specific radionuclides that are exempted from the requirements of 902 Chapter 100;**902 KAR 100:085** – establishes a list of concentrations for specific radionuclides that are exempted from the requirements of 902 Chapter 100; **921 KAR 3:035 & E** – establishes the certification process used by the cabinet in the administration of the Supplemental Nutrition Assistance Program (SNAP); **922 KAR 1:320 & E** – establishes procedures related to appeals and complaints for benefits and services under 922 KAR Chapters 1 through 5 until April 1, 2017, and Chapters 1, 3, and 5 effective April 1, 2017; **922 KAR 2:020 & E** – establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP); **922 KAR 2:160 & E** – establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available; and **922 KAR 2:260 & E** – establishes cabinet procedures related to appeals and complaints for child care benefits and services under 922 KAR Chapter 2 effective April 1, 2017. A motion to accept the referred administrative regulations was made by Representative Marzian, seconded by Representative Burch, and accepted by voice vote.

Richard Morris and Brenda Bowman, CCAK, stated that they does not want to tell low-income parents their child cannot be accepted because there are no child care assistance program funds available. Hundreds of child care centers have closed in the past three years because of the lack of funds available to low-income parents through the child care assistance program. The main goal is to maintain high quality within the child care center.

In response to a question by Senator Danny Carroll, Mr. Morris stated that he did not know what happened to the children who no longer were qualified for child care assistance. It is hard to retain employees or even hire new ones without adequate funds.

Minutes

A motion to approve the minutes of the July 20, 2016 meeting was made by Senator Kerr, seconded by Representative Wuchner, and approved by voice vote.

Coordination of Services for Individuals with Brain Injuries

Mary Hass, Advocacy Director, Brian Injury Alliance of Kentucky (BIAK), stated that the mission of the BIAK is to serve those affected by brain injury through advocacy, education, prevention, service, and support. A brain injury is an event that alters the neurological functioning of the brain and lasts long after the event has occurred. A traumatic brain injury (TBI) can result from falls, motor vehicle or bicycle accidents, assaults, or military injury. An acquired brain injury (ABI) can be caused by strokes/aneurysms, brain tumors, anoxic injuries from near drowning, heart attacks, and loss of blood, or infections such as encephalitis. A brain injury can happen to anyone at any time. Some unseen effects include personality changes, seizures, cognitive issues, emotional control, balance and mobility issues, physical speech issues, or decreased quality of life. The severity of the injury is not necessarily an indicator of recovery, but there will always be some long-term impact from the brain injury. Someone with a brain injury has decreased independence, unemployed and financial hardships, substance abuse, family problems, higher rates of homelessness, poverty, and incarceration, increased rate of suicide, and increased cost to the taxpayer. Brain injury directly affects five percent of all Kentuckians. The ABI waivers are currently serving 703 persons with an additional 191 on a waiting list for a total of 894 individuals.

Diane M. Schirmer, Medical Director of Brain Injury Services, New Vista Health, Inc., Lexington, stated that neurologic damage associated with brain injury is a progressive chronic condition. There should be a broad range of treatment options across the continuum to respond to individual needs. Evidence demonstrates that access to post-acute rehabilitation, even many years after the injury, results in significant functional treatment gains and reduced costs.

Linda M. Klawitter, MA, CCC/SLP Speech-Language Pathologist, Newcare ADT Program, Louisville, stated that there are many concerns related to the proposed changes to therapies coming out of the Acquired Brain Injury Medicaid waivers and instead requiring individuals who have suffered an ABI to receive their therapies under the State Health Plan (SHP). Therapies under the ABI waivers enabled these individuals to receive the needed intense therapy to allow them to reach their potential and increase their independence.

Under the state plan, these individuals may only be granted 20 visits per year depending upon how much progress they have made when the treating therapist submits documentation and a reviewer enters the information into a system call Inter Qual. The ABI waiver allows intensive therapy at least 1.5 hours per day verses 20 visits per year in the SHP. Many individuals with ABI have many deficit areas and goals that must be addressed through community reintegration. Research and anecdotal evidence suggests that skills addressed in a clinical setting do not necessarily translate to skills needed in the community. Progress from brain injury is a slow and rigorous process, and goals cannot be met in the restrictive cap of 20 visits per year. The brain controls thoughts, actions, and emotions. When a brain injury occurs, many deficit areas are often present, making the need for intense, consistent therapy necessary. Without intense therapy, many clients would be in nursing homes, psychiatric hospitals, incarcerated, or homeless.

Jennifer Hornback, seven-year brain injury survivor and college student, stated that a quote by Laurell K. Hamilton says "There are wounds that never show on the body, that are deeper and more hurtful than anything that bleeds." Just because a wound is not visible to the eye, does not mean the struggles someone goes through does not exist. As with many other brain injury survivors, she has had to face struggles of depending on support systems to help recover after her family was told she may never be functional again. If it was not for the help and support of speech therapists, occupational therapists, psychologists, and behavior therapists, she does not know how she would have coped with life after she woke up from her coma. No brain injury is alike just as no two people are alike. Like everything else in life, recovery takes time, patience, and energy. Recover is not something that can happen overnight. Recovery is a lifelong process that continues even when all of the visible scars have healed.

Alex Nauert, Military Outreach Coordinator, Brain Injury Alliance of Kentucky, stated that the BIAK Military Traumatic Brain Injury Program works independently, and with other veteran service agencies to actively seek out Kentucky veterans and their family members affected by a mild military TBI and connect them to the resources needed in order to maximize their recover and future success. Kentucky veterans needs often go unnoticed because many people assume that all veterans are federally assisted from the Department of Veterans Affairs. However, many Kentucky veterans acquire brain injuries from non-military related incidents that are not covered under federal assistance such as automobile accidents, brain diseases, falls, and unfortunate accidents. Co-occurring symptoms of post-traumatic stress and traumatic brain injury are fatigue, insomnia, depression, irritability, and anxiety. To qualify for Veterans Administration (VA) benefits a veteran must be properly discharged, have wartime service, be permanently and totally disabled or over the age of 65, and demonstrate financial need. All other veterans must access the same services as all Kentucky residents. To date, BIAK Military Outreach has met and assisted over 120 Kentucky veterans who had a known acquired brain injury, both service and non-service related. As we continue to be reminded of the vast number of veterans who go undiagnosed with a TBI or PTSD mental illness, the Commonwealth of Kentucky must seize the opportunity to pioneer a remedy for this situation. We can show that we care by allowing not only the veterans that have had their brain injuries diagnosed, but also the veterans that are yet to be diagnosed to have access to the same Medicaid services provided by the Commonwealth. Regardless if a Kentucky veteran received a brain injury abroad or on the Homefront, service-connected or non-service connected, they all need to be considered under this continuum.

Ms. Hass stated that the Department for Medicaid Services (DMS) administers the Acute and Long-Term Acquired Brain Injury Medicaid waivers. The Department for Aging and Independent Living (DAIL) administers the TBI Trust Fund and the Traumatic Brain Injury Behavioral Program. The Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) administers the ABI unit at Eastern State Hospital and Community Mental Health Centers. This multi-layer approach adds another layer of bureaucracy for families to navigate. When families are in crisis, they just want to know who to call for help. Services are hindered by a lack of coordination, communication, and policy decisions that conflict with other departments. BIAK proposes the services provided by DMS, DAIL, and DBHDID for individuals with brain injuries be combined in a new department within the cabinet that would have a unified mission and purpose and would be able to coordinate the work of the ABI Medicaid waiver and TBI Trust Fund. All brain injury services located in one department would better serve persons who have a brain injury, save money in administrative costs for use for those who need it, offer a centralized approach that is more efficient and effective in helping people, and align policy and definitions. Rehabilitation is recovery.

Eddie Reynolds, Program Director/Outreach Coordinator, Brain Injury Alliance of Kentucky, was available for questions.

Senator Adams stated that now is the time to work with the cabinet to streamline the process.

In response to questions by Representative Burch, Ms. Hass stated that she would try to get statistics on how many of the five percent of Kentucky residents diagnosed with a brain injury are receiving treatment. The Affordable Care Act has allowed people who have not had insurance in the past be able to receive services now.

Representative Benvenuti stated that individuals with TBIs should not be included in the Medicaid population because they need more intensive and specialized care.

In response to a question by Representative Wuchner, Ms. Hass stated that there needs to be a one-stop, centralized case management system. Severity does not predict an individual's outcome.

In response to questions by Senator Kerr, Ms. Hass stated that stroke victims would be included in the five percent of Kentuckians diagnosed with a brain injury. Services are available for these five percent of Kentuckians.

In response to questions by Senator Alvarado, Ms. Hass stated that children can receive services under the Michelle P waiver and EPSDT. The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. EPSDT is key to ensuring that children and adolescents receive appropriate preventive, dental, mental health, and developmental, and specialty services.

In response to questions by Representative Brown, Ms. Hass stated that there should be one entity who would oversee all brain injury services to maximize funding. There is good data available on how to go forward with this proposal. Representative Brown stated that there needs to be a study conducted to show where the funds would be used if under one department.

Overview of the University of Louisville Trover Campus

William Crump, M.D., Associate Dean, University of Louisville School of Medicine Trover Campus, Madisonville, Kentucky, stated that data from the Health Resources Services Administration (HRSA) Data Warehouse, HPSA Find Results stated that as of July 29, 2016, 81 percent of the 120 Kentucky counties or 68 percent have a health professional shortage (HPSA) designation. HPSA area means that each citizen in these counties has to share their doctor with more than 3,500 neighbors, when a busy family physician typically cares for about 1,800 patients. The purpose of the University of Louisville Trover Campus is to provide first-class medical education in a small Kentucky town and place more graduating medical students in practice in small Kentucky towns.

Approximately 58 percent of Trover Campus graduates choose rural practice. Recruitment of one doctor to a small town adds $1.6 million per year to the local economy. Approximately $1 million from coal severance funding per year supports 60 Pathways students and produces 10 new doctors per year.

Austin Beck, M.D., Madisonville, stated that he graduated from Murray State University and Trover. He did his residency at Madisonville Baptist Health. The physician shortage is a real problem in rural areas. Individuals from small towns often lack confidence to go into the medical career because of incurring a huge debt and the inability to pay it back. Doctors in rural settings often need to know more about specialties such as obstetrics, because they may be the only doctors available in a community. There needs to be a continuity of care.

Jennifer Hays, third-year Trover medical student, stated that it is difficult to receive one-on-one education during clinical years at larger universities. Surgery rotation is a great time to learn, and the one-on-one experience provided at Trover is invaluable. Students are able to establish a personal relationship with patients.

Senator Alvarado stated that funds for the graduate-medical-education program have been cut which affects residency programs in all teaching hospitals. There is a need for more funding for residencies in small towns. Dr. Crump stated that Kentucky is losing doctors to other states because there are not enough residency positions available.

In response to questions by Representative Burch, Dr. Beck stated that he was able to keep tied to his local community by attending Trover. He will be able to set up his practice through the support of the local hospital and Trover. Dr. Crump stated that it a personal connection with the community is established. Dr. Beck stated that approximately $100,000 to $112,000 of the $180,000 medical debt goes toward tuition, the rest goes toward other expenses. Medical school is a full-time job, so there are no other opportunities to earn money to help with expenses.

In response to a question by Representative Westrom, Dr. Crump stated that students are taught that they cannot care for others if they do not take care of themselves. Dr. Beck stated that Trover taught him to take time for himself and take time off when needed. Ms. Hays stated that with the help of good nurse practitioners and staff, doctors are able to take time off.

In response to a question by Representative Brown, Dr. Crump stated that rural high school scholars live at home instead of living on the University of Louisville campus to help them realize they do not have to leave home in order to accomplish something great. Students from small towns tend to set their standards lower, and the goal is to show them it is possible to earn a degree.

In response to questions by Senator Danny Carroll, Ms. Hays stated that if resources are not available at the high school to help a student enter the medical field, resources are available through the internet to help prepare them for college. Dr. Crump stated that there is a need to have rural high schools more involved with local hospitals.

In response to questions by Representative Marzian, Dr. Crump stated that every $50 invested in a free clinic saves $1,600 in a hospital or emergency room visits. It is a wise decision to invest in primary care.

Update on Kentucky Zika Virus

Ardis Hoven, M.D., Medical Consultant,Department for Public Health, Cabinet for Health and Family Services, stated that Zika is a viral infection primarily spread by the bite of a mosquito, but can also be transmitted sexually. It is an ongoing epidemic in Central and South America, the Caribbean, Pacific Islands, and United States territories. The current risk for Kentuckians is an infection acquired when traveling to a country where there is active transmission. The first locally acquired cases in the continental United States have occurred in Florida. As of August 16, 2016, there have been 19 confirmed cases in Kentucky, and all were related to travel. The symptoms of Zika are a mild rash, fever, joint pain, and conjunctivitis, but 80 percent of have no symptoms. The only way to diagnose Zika is with a specific laboratory test. The greatest risk is to pregnant women or women who become pregnant while infected. No vaccine is currently available to treat Zika.

In May 2015, the World Health Organization (WHO) reported the first local transmission in the Western Hemisphere. In January 2016, the Centers for Disease Control and Prevention (CDC) Health Advisory alerts the presence of Zika in 14 countries in the Americas. On February 9, 2016, the Department for Public Health (DPH) activated the State Health Operations Center (SHOC) for Kentucky. There has been extensive collaboration between local health departments and epidemiology staff regarding persons who have traveled to endemic areas and meet criteria for testing. The cabinet has regular communication with the CDC regarding positive tests, the development of the pregnancy registry, and recommendations for and monitoring of affected or potentially affected infants. The DPH has included the Zika virus infection among the conditions and diseases requiring notification to the local departments and to the state. The DPH is working with blood banking agencies to protect the blood supply and partnering with multiple agencies to enhance mosquito surveillance and control.

Justin Carey, Health Environmentalist, Department for Public Health, Cabinet for Health and Family Services, stated that the DPH and Public Health Protection and Safety (PHPS), Department of Agriculture, have purchased additional traps to be deployed throughout the state for increased surveillance to be completed by Environmental Health Strike Team members. The surveillance is being done in conjunction with Dr. Grayson Brown and the University of Kentucky's Department of Entomology. The DPH and local health departments' environmental health staff are conducting in-depth inspections at the homes of all travel-associated Zika cases. The inspections focus on identifying and reducing breeding sites and areas that can harbor adult mosquitoes. Local health departments have drastically expanded mosquito control activities and messaging throughout communities and clinical health programs.

David Wayne, Environmental Services Director, Department of Agriculture, stated that the KDA's Division of Environmental Services sprays for mosquitoes at the request of local officials and local health departments. Eight KDA employees spend an average of 3,100 hours treating some 100,000 acres each year. The department also maintains a contract for aerial applications to address unusually high mosquito infestations. The division operates ultra-low-volume (ULV) fogging machines for mosquito control in parks, summer camps, and other outdoor areas where people congregate. The KDA and the DPH have entered into a Memorandum of Understanding that would allow DPH to utilize the agriculture department's ULV equipment to target areas with known cases of Zika virus.

Representative Wuchner suggested that the local health department have information available to the public, law enforcement, and first responders of areas being sprayed for mosquitos. Dr. Hoven stated that transparency of information is necessary.

In response to a question by Representative Moore, Dr. Hoven stated that the cabinet is going to areas where there is a chance of someone being infected by the Zika virus.

In response to a question by Representative Westrom, Dr. Hoven stated that someone who comes home from a Zika-infested area has to use repellants for three weeks. Good practices are to drain standing water and wear light color clothing.

In response to questions by Senator Wise, Dr. Hoven stated that the cabinet has invited all stakeholders including the Kentucky Office of Homeland Security to participate in discussion on how to stop the spread of the

Zika virus. Dr. Grayson Brown, University of Kentucky Department of Entomology, stated that genetically modified mosquitoes is a new technology and has been proposed for use in Key West along with other places.

Adjournment

There being no further business, the meeting was adjourned at 11:24 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education

Minutes of the 2nd Meeting

August 15, 2016

Call to Order and Roll Call

The 2nd meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, August 15, 2016, 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; Representative Wilson Stone, Co-Chair; Representatives Linda Belcher, Hubert Collins, Jeffery Donohue, David Hale, Brian Linder, Marie Rader, Jim Stewart III, and Jill York.

Guests: Karen Frohoff and Charlmeille Scherer, Jefferson County Public Schools Special Education Co-op; Bob Rowland, KASA and RRTA; Wayne Young, KASA.

LRC Staff: Jo Carole Ellis, Janet Stevens, Avery Young, and Chris White.

Chairman Carroll stated without a quorum being present, the minutes of the July 18th meeting would be approved at the committee's next meeting, September 12, 2016.

"An Overview of Kentucky's Special Education Program in Public Schools"

Gretta Hylton, Director, Sammie Lambert, Assistant Director, and Todd Allen, Assistant General Counsel, Kentucky Department of Education (KDE) Division of Learning Services, presented "An Overview of Kentucky's Special Education Programs in Public Schools."

Ms. Hylton said Kentucky law requires all students who are identified under the federal Individual with Disabilities Education Act (IDEA) be provided with a continuum of core instruction. If it is determined lack of progress meets any of the 13 categories of disability identified under IDEA, an Admissions and Release Committee (ARC) will look at relevant information and decide whether the disability adversely affects the student's education program consistently and significantly. The ARC, comprised of a student's parents, general education teacher, special education teacher, school administrator, and other individuals who have a legitimate interest in the student's educational needs, develops an Individual Education Plan (IEP) that contains educational goals for the student and a timeline for achieving these goals. Ms. Hylton explained an IEP is an educational program developed by the ARC specifically for a student covered by IDEA and is based on the student's individual needs and reviewed annually.

Ms. Hylton said students performing well in a general education classroom in core instruction would not be eligible for special services but may have unique and individualized interventions applied in the general education setting for each child. When developing the IEP, the ARC reviews student evaluation data and observations. If it is determined students have not achieved their peers' level, ARC will outline goals for those specific areas.

Ms. Hylton said progress monitoring data of the goals are collected, and if it is revealed the student is not making progress, the ARC will reconvene and determine what changes are needed regarding the child's instructional program. The IEP can be reviewed as often as needed.

My. Hylton said each IEP is unique and implemented according to its own content by persons qualified to provide the specified services. She said although there is no regional standard for the goals outlined, IEPs must be implemented as written.

Ms. Hylton said that families are educated about and involved in the IEP development process as required members of the ARC. The KDE authored IEP Guidance Document is a resource that goes into depth about the IEP process. Parent groups are able to access the guidance document from the KDE website. The special education divisions of the nine regional educational cooperatives are funded by KDE and may provide trainings and parent information as well.

Kentucky Special Education Parent Network (KY-SPIN) is a federally funded center that provides technical assistance to parents. The center staff conducted trainings and host conferences for parents on understanding the IDEA, the IEP, and the rights of parents and students. KDE provides federal funds to support KY-SPIN. KDE also funds a Parent Involvement Coordinator through a federal special education grant. The coordinator provides training to parents at regional parent conferences. KDE has an online parent handbook available and has plans for a series of videos that include IEP development.

Ms. Hylton said IDEA requires students to be educated in the least restrictive environment. For students with mild disabilities, services are usually provided in the general education classroom, sometimes co-taught with a special education teacher. Students with more significant needs may require a resource room, a self-contained classroom, a separate school, or a residential setting. The educational setting is an individualized decision made by the ARC. She said services such as speech/language therapy, psychological services, nursing services, counseling, physical therapy, occupation therapy, and audiological services may be identified in the IEP to assist students in reaching their individual goals. These services may be provided in the student's typical educational setting or separately if the student needs to be worked with individually. Schools may provide peer tutoring by students without disabilities assisting students with IEPs.

Ms. Hylton said the University of Kentucky's Development Institute is training schools throughout the state to set up Peer Support and Peer Network Programs, relating directly to KDE's low incidence initiatives.

Ms. Lambert said that KDE does not collect data on the number of special education classes held in non-standard classrooms, such as trailers, rooms in another part of the school, or even off campus. She said it is discrimination under Section 504 federal law for students with disabilities to be provided with an aide, benefit, or service that is not as effective as that provided to students in standard classrooms, including sub-standard classrooms. The Federal Office for Civil Rights (OCR) in the US Department of Education enforces Section 504 in the public school setting and deals with inequities or complaints relating to substandard classrooms.

Ms. Lambert said the number of self-contained classrooms is difficult to estimate since "self-contained" is not defined in administrative regulations. Some districts use resources rooms as a self-contained setting for students while other districts may have a dedicated, self-contained classroom where student remain throughout the day.

In response to Chairman Carroll's question as to whether this is acceptable, Ms. Lambert said while it is not acceptable by her standards, it is allowable. In response to Chairman Carroll's question regarding whether a complaint by a special education teacher can be anonymous, Ms. Lambert said detailed information is collected when a complaint is filed.

Ms. Lambert said KDE can provide the number of students with disabilities, as well as the percentage of students who spend less than 40 percent of their day in the general education setting. The US Department of Education (USDE) requires the KDE to report this data on its Annual Performance Report (APR), which is part of the USDE's monitoring of State Education Agencies. USDE views a "self-contained" category as less than 40 percent of the day in general education setting. During the 2014-2015 school year, there were 6,642 students in Kentucky who spent less than 40 percent of their days in general education settings. She said although KDE's target for APR, set at 8.7 percent several years ago in a report to the Office of Special Education Programs (OSEP), the actual data for 2014-2015 was 8.22 percent, or an achievement of 48 percent better than the goal. During the 2013-2014 school year, the percentage of Kentucky's IDEA students in general education less than 40 percent of the day was 8.43 percent, or 27 percent above the goal.

Ms. Lambert said KDE also conducted a recent, informal survey in preparation for today's meeting. Out of the 173 districts polled, 168 responses provided information that 7,440 students were served in 1,095 self-contained classrooms.

Ms. Lambert said that special education students generate state funds under the SEEK funding formula and are included in the average daily attendance (ADA) calculations. The funds are intended to support student participation in the general education curriculum, since many students with mild disabilities can be served in the general classroom.

Ms. Lambert said special education students generate other funds by qualifying for additional programs such as the exceptional child add-on funds under the SEEK funding formula. These funds are intended to support the cost of providing special education services to children with disabilities and are generated based on the annual December 1 child count. The exceptional child add-on funds include students ages 5 through 20 from the count. The count is weighted according to the degree of disability, with three different weights ranging from mild at 0.24, medium at 1.17, or significant at 2.35. Each disability count is multiplied by its weight, then multiplied by that year's base amount per child. This amount would generate add-on funds.

Ms. Lambert said the state exceptional child add-on funds are not earmarked for special education services, but go directly into the district's general fund and may be spent on any allowable activity the general fund supports. She said that to be eligible for federal IDEA funds, a district must spend at least as much state and local funds providing special education as it spent in prior years. Each year the USED allocates federal funds, under Part B of the IDEA, to supplement the cost of providing special education and related services to children with disabilities, such as wheelchair access, ventilators, or other items.

Ms. Lambert said federal IDEA funds may be used to pay for the excess cost of providing special education and related services to children with disabilities, unless that child has an IEP. Excess cost is the cost above the average per pupil amount spent to provide general education to students and is calculated separately for elementary and secondary school programs.

IDEA funds may only be used to pay the excess cost unless the district provides Coordinated Early Intervening Services (CEIS) described in the IDEA. A local district may not use IDEA fund to supplant state and local funds it spent in previous years to provide special education and related services. If a local district fails to spend the amount of state and local funds it spent in a prior year providing special education and related services, the state must repay USED the amount the district failed to spend from non-IDEA or other non-federal funds. The state may recoup this amount from the school district.

Federal IDEA funds are typically spent on salaries of service providers and the Director of Special Education in the district. However, supplies, materials and other costs associated with providing special education are allowed. Districts may not spend IDEA funds providing services to students without disabilities. However, incidental benefits to a non-disabled student is permissible.

Mr. Allen summarized the administrative regulations related to special education services for students in Kentucky schools. Federal law required each state to promulgate administrative regulations or rules regarding special education services to students. These regulations essentially govern all the programs and services discussed today. The regulations located in Title 707 KAR are related to special education and federal guidelines that are provided by USED; however, some leeway is allowed regarding how special education is governed, education services, and how the processes appear at the state level. Mr. Allen said the administrative regulations outline a district's requirement to identify and evaluate all students with a suspected disability and determine if the criteria qualifies the student as one with a disability. He said the regulations set forth how the IEP should be developed, what a student is guaranteed regarding a free, appropriate public education in Kentucky public schools, and how to determine the student's placement in either general education classroom, in a resource room for a portion of time each day, or another setting. It also sets forth the procedural safeguards in place if a parent or student has a complaint about the manner of identification or evaluation with regard to special education. Three options available to the student or parent include filing a complaint, requesting mediation, or requesting a due process hearing in front of a hearing officer.

In response to Representative Belcher's question regarding the frustration by special needs children during testing who are performing at a lower level than the test, Ms. Lambert said there is a federal mandate that the construct of the test cannot be violated. She said a reader can be provided for subjects, as long as "reading" is not the subject being tested. Representative Belcher said that many students develop at a slower pace, and while a child's IEP indicates a third-grade reading level, children are required to be tested at fifth-grade level. The level of frustration increases and the child may tend to "close down."

In response to Representative Belcher's question regarding streamlining of paperwork and data being monitored, Ms. Lambert said every action taken in all ARC meetings throughout Kentucky is captured in the Student Information System (SIS). She said prior changes made have caused technical glitches and KDE is rearranging the technical platform of the SIS to provide a smooth, seamless IEP process that mirrors the regulations. Ms. Hylton stated that, because on-going progress data is lengthy, perhaps a "check" system utilizing frequency data be instituted. Ms. Hylton said training issues can be addressed with the regional cooperatives, schools, and districts to determine a system that is more efficient and effective but at the same time capture the pertinent information. Representative Belcher explained the need for clearer instruction and an opportunity to review documents before the school year begins. While at the same time concentrating on providing services to the student, schools may find the SIS is too time consuming to review after the beginning of the school year.

In response to Representative Belcher's question regarding how teachers will be affected with the closing of the ADA office in Frankfort, the department indicated it is unaware of the closing. Ms. Lambert said Section 504 is part of the ADA federal law for purposes of schools. Representative Belcher suggested there could backlash from federal government if the ADA office has closed.

In response to Representative Stewart's question, Ms. Lambert said there are 95,000 special needs children in Kentucky, and the number has decreased over the years by several thousand students due to issues concerning over-identification. She said the percentage of special education students in Kentucky is comparable to surrounding states. Representative Stewart requested a copy of the chart which KDE will provide.

In response to Representative Stone's question regarding whether Kentucky is over-diagnosing special needs children, Ms. Lambert stated 707 KAR 380 authorizes KDE to perform a child-count audit for any school district that has a special needs percentage greater than 15;

Kentucky averages 12 percent. Mr. Allen said a low percentage of special needs children in the district might suggest an under-diagnosis.

In response to Representative York's question regarding parents who may encourage their children to exhibit certain behaviors which will enable them to qualify for additional family resources, Ms. Hylton stated KDE is aware of similar situations; however the manner in which the ARC process is conducted should resolve any issues. Effective core instruction followed by intensive interventions designed to meet students' needs would make it difficult to "trick" the system. The tier system provides teachers with competence to perceive the student's ability level. She expressed the need to provide motivation and encouragement, and suggested the use of parent support networks. Mr. Allen said the evaluations are performed by highly-qualified individuals using scientifically research-based practices during evaluation, observing and recognizing consistent behavior, and identifying the "gaming system" that could possibly be encouraged by parents. Ms. Lambert said at one time more than 35 percent of developmentally delayed children were identified in some districts, but the numbers have decreased. KDE is aware of the issue, and if an audit identifies students who are not qualified, the funds must be returned.

In response to Chairman Carroll's reference in the report regarding the IEP not having regional standards, Ms. Hylton said the standards differ by area.

In response to Chairman Carroll's question regarding integration among special-needs students and developing students, Ms. Hylton agreed students should be educated with peers to achieve their potential. She believes resources should not be a determining factor in these decisions, and agrees that while some standardization and access to the general education environment is needed for an appropriate education, there must also be mindfulness of student needs regarding individualized instruction and integration.

In response to Chairman Carroll's question regarding SEEK funding, the KDE panel responded there is no stipulation regarding how these funds are spent.

In response to Representative Hale's question regarding self-contained classrooms, Ms. Hylton explained that self-contained is not clearly defined in the regulation and is subject to interpretation which may vary among school districts. Mr. Allen added that KDE's understanding is that a self-contained classroom has only special education students and no general education students. These classrooms may be designed in various ways where some special education students may spend only part of the day others may spend the entire day.

Chairman Carroll talked about the effectiveness of peer-tutor programs in McCracken County and suggested they be mandatory throughout the state, as it helps with the maturity of special education students. He strongly encouraged a standardized process of educating parents regarding specific services available to them.

"Meeting the Needs of Kentucky's Special Education Students"

Directors from the Kentucky Special Education Cooperatives (KSEC) made a presentation on "Meeting the Needs of Kentucky's Special Education Students." The presentations were made by Stephanie Little, Big East Educational Co-op; Melissa Reynolds, Southeast/Southcentral Educational Co-op; and Linda Alford, Northern Co-op for Educational Services.

Ms. Alford said the vision statement of the KSEC is to provide effective leadership that facilitates the educational success of students and their mission statement is to enhance the educational opportunities and outcomes of students by providing effective leadership and delivering specialized services in partnership with the KDE, local school districts, institutes of higher education, and other service providers.

Ms. Alford said the in the 1980s and 90s, districts that were geographically close could apply to KDE to become a cooperative. One of the districts within the region became the fiscal agent for the cooperative. Each cooperative established its needs through an annual grant.

In 2013, KDE realigned into nine Special Education Cooperatives. Eight of the nine cooperatives became part of the region's General Education Cooperative. They are Central Kentucky Educational Cooperative (CKEC), Green River Regional Cooperative (GRREC), Jefferson County Public Schools (JCPS), Kentucky Educational Development Corporation (KEDC), Kentucky Valley Education Cooperative (KVEC), Northern Kentucky Cooperative for Educational Services (NKCES), Ohio Valley Educational Cooperative (SESC), and Western Kentucky Educational Cooperative (WKEC).

Ms. Little said KDE receives federal funding as designated from the Individuals with Disabilities Education Improvement Act (IDEIA) to ensure districts receive technical assistance, professional development and specialized services.

Ms. Reynolds discussed the formula calculated allocation of $280,000 base amount per cooperative, $14,511 per member district, $25.40 per child from the December 2015 count, and additional initiative-based funding which varies by cooperative.

Ms. Reynolds said the services provided include literacy, math, transition, behavior, low incidence, autism, assistive technology and special education compliance.

Ms. Reynolds said the components of literacy included five areas of specialization: phonemic awareness, phonics, fluency, vocabulary development, and comprehension. Also included were research-based literacy interventions, core writing instruction and interventions, high-yield instructional strategies, school culture assessment and support, co-teaching models, co-teaching for gap closure literacy supports, and multi-sensory reading.

Ms. Reynolds provided the math areas of specialization which include teaching match conceptually in elementary and middle grades, teaching math conceptually in high school (algebra), co-teaching models, and co-teaching for gap closure--math supports.

Ms. Alford addressed the area of transition specialization, which include postsecondary transition, college and career readiness for alternate assessment, transition fairs and reality stores, operation preparation, persistence to graduation tool technical assistance, and facilitated IEP.

In the area of behavior specialization, Ms. Alford included evidence-based practices for behavior; co-teaching for gap closure--behavior supports; classroom management; technical assistance, consultation and coaching for behavior; trauma informed care; youth mental health first aid; positive behavior support and school wide behavioral supports; social skills instruction; and Kentucky behavior response to intervention-web resources.

Ms. Alford addressed the areas of specialization regarding low incidence and autism as evidence-based practices for moderate and severe disabilities and autism; training and technical support for alternate assessment; SPLASH--new teacher support; college and career readiness for alternate assessment; peer support networks; teaching age appropriate learning through communication (TAALC); autism model classrooms; autism learning series and problem solving sessions; and aligned science standard for alternate assessment.

Ms. Little said the areas of specialization for assistive technology are Assistive Technology (AT) evaluations and training, classroom AT technical support, TAALC, and the use of different devices and learning tools.

Ms. Little said the areas of specialization for special education compliance are technical assistance for districts with corrective action plans; eligibility training, IEP training; progress monitoring training; Admissions and Release

Committee (ARC) chairperson training; record review compliance monitoring; and new special education teacher training.

Ms. Little addressed other areas of specialization as speech language pathologist cadre/professional learning committee (PLC); related services technical assistance; preschool cadre/PLC; school psychology cadres/PLC; principal cadres; guidance counselor cadres; Professional Growth and Effectiveness System (PGES); visual phonics; data retreats; and novice reduction strategies.

Ms. Reynolds discussed the Kentucky School for the Blind (KSB) and Kentucky School for the Deaf (KSD) outreach consultants. KSB outreach consultants provide visual impairments and blindness professional learning communities; visual impairments preschool services; cortical visual impairment training; social interaction events for students with visual impairments; student consultations; technical assistance; functional vision learning media assessments; and family events. KSD outreach consultants provide social interaction events for students with hearing impairments, frequency modulation (FM) systems for auditory processing disorders training for teachers, and student consultations/technical assistants, functional hearing assessments, and family events.

The cooperatives have partnerships with several organization, including a branch of support with both the University of Kentucky and the University of Louisville.

Ms. Alford addressed the challenges facing special education, including federal funding, shortages of teachers, shortages of related service personnel, more complex student needs, and mental health needs of students.

Ms. Little gave a breakdown of events as hosted by the 9 cooperative regions: CKEC hosted 77 events in June and July with 1,921 participants; GRREC hosted 28 events with 1,330 participants; Jefferson County hosted 28 events with 3,432 participants; KEDC hosted 37 events with 1,776 participants; KVEC hosted 38 events with 1,547 participants; NKCES hosted 19 events with 770 participants, OVEC hosted 53 events with 613 participants; SESCC hosted 27 events with 864 number of participants; WKEC hosted 45 events with 945 participants. For June and July, across the state, the total number of participants in all events was 13,198 individuals, comprised of parents, teachers, and related service providers. Ms. Alford said these figures do not include an additional 1,000-2,000 phone calls, emails, and on-site visits to the facilities, and preparing other trainings to be used by the cooperatives.

Representative Belcher commended OVEC for the assistance provided in her region for programs affecting Early Childhood Education through programs such as People Understanding Special Handicaps (PUSH) and Head Start. Ms. Alford said staff from the cooperatives assist teachers in early childhood learning centers throughout the year.

In response to Chairman Carroll's question, Ms. Alford said her agency works closely with KDE and without each other would be unable to impact districts across Kentucky. She said challenges are constantly presented, but the cooperatives must step up the differentiated instruction and co-teaching, not only for special education teachers but for all teachers. Eighty percent of special needs students are in regular classrooms throughout the school day. Continued support from KDE and universities is critical to the student's success from early childhood through college or career. It is critical that all teachers are equipped to provide a good education for Kentucky children.

Ms. Alford said there are many at-risk children who do not qualify for services, but clearly need help. This creates a dilemma for teachers, which is why co-teaching is so important.

Ms. Reynolds said special education teachers need to realize that is not about the compliance, but that an IEP is a tool to guide the school and the teacher to provide a foundation for the needs of the child. She said matching specially-designed instruction to the child's needs is used to help guide the framework for success.

Ms. Little said one of the biggest challenges in Eastern Kentucky relates to the lack of visual and hearing impaired teachers. The cooperative's goal is to identify and encourage students within its geographical area to pursue interest in specialized teaching fields such as hearing or vision impairment. In response to Chairman Carroll's question, Ms. Alford said some of the best visual and hearing impaired teachers are ones that did not begin in that particular area.

Ms. Reynold said the Southeast/Southcentral area feels it would be valuable to implement a teacher pipeline and peer-network support working with teachers for regular education and special education, where credit will be given for volunteering. She said the peer-network support is valuable in recruiting FMD teachers.

In response to a question from Chairman Carroll, Ms. Alford said disparity in the quality and structure of programs was a problem in the past, but not an issue today. She relayed conversations with parents who agree the special education students may not get much out of the core content, but the interaction with their peers is critical for success, especially when regular education students work with special needs students. Ms. Little said regular students volunteer to help special needs students, which results in developing friendships. Chairman Carroll said statewide participation is crucial to provide a good balance between students and teachers in educational studies as well as sports.

In response to Representative Stone's question, Ms. Little said while she cannot confirm an increase in the use of instructional assistants in special education, she feels it is more effective and efficient. Ms. Alford added her district has trained over 500 para-educators on how to differentiate instruction as a means to close the gap.

In response to Chairman Carroll's question regarding where SHIP stands with the state, Ms. Little responded she does not believe funding was received but are still trying to operate on funding through waivers.

Chairman Carroll said another subcommittee meeting will include testimony from groups and families who have experienced the special education system and the various struggles they faced, which will provide another perspective.

Chairman Carroll announced the next meeting will be September 12, 2016 in Frankfort.

On a motion by Representative Collins and second by Representative Stone, the meeting was adjourned at 11:45 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education
Minutes of the 2nd Meeting
of the 2016 Interim

August 15, 2016

Call to Order and Roll Call

The 2nd meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, August 15, 2016, at 10:00 a.m., in Room 131 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Cluster Howard, Co-Chair; Senators David P. Givens, Stephen West, and Mike Wilson; Representatives George Brown Jr., Derrick Graham, Donna Mayfield, Reginald Meeks, Jody Richards, Tom Riner, Arnold Simpson, David Watkins, and Addia Wuchner.

Guests: Erin Klarer, Kentucky Higher Education Assistance Authority; Mardi Montgomery, Education and Workforce Development Cabinet; Jo O'Brien, Program Director for Manufacturing Pathways, Colorado Community College System Career & Technical Education

LRC Staff: Joshua Collins, Yvette Perry, and Maurya Allen.

Representative Watkins made a motion to approve the minutes of the July 18, 2016 meeting. Representative Howard seconded the motion and it passed by voice vote.

Colorado's Career Pathways Program

Chairman Kerr introduced and welcomed Jo O'Brien, Program Director for Manufacturing Pathways, Colorado Community College System Career & Technical Education, who were participating via teleconference. Ms. O'Brien invited members to look at the information she was going to present as a way to portray economic opportunity and the educational pathways to it. She encouraged legislators to use the elements of it that would be best for Kentucky. She gave an overview of what the business structure looks like in Colorado, focusing on which areas of industry have projected the most job openings over the next ten years. This narrowed her focus to four industries: advanced manufacturing, construction, healthcare, and information technology/software. She gave the income projections several sectors of the economy, including manufacturing at $18 billion, healthcare at $17 billion, and technology at $15 billion.

In terms of job openings, nearly half of the openings in Colorado are in manufacturing, yet students in K-12 classrooms are not interested in those careers. This lead to a question of the fundamental difference between counselors and clients/students in America versus other industrialized nations. In America students are largely asked, "What do you want to do?" and encouraged to follow an education path that suits that answer. In other countries, students are provided with information about job opportunities and encouraged to find a pathway within a job sector that interests them and is experiencing growth. America's approach leads to individuals entering the workforce who are not well-qualified for the available jobs. Ms. O'Brien illustrated a growing gap between the job needs of Colorado and the employability of the state's citizens by stating that each year there are 9,000 unfilled jobs in healthcare, 7,100 unfilled jobs in construction, 10,000 unfilled jobs in information technology, and 15,000 unfilled jobs in advanced manufacturing.

Colorado legislators desired to signal the growing areas to students and encourage education in those jobs. This formed the foundation of Colorado's House Bill 1165 from the 2013 Legislative Session. She also pointed to skills that are necessary for the job market which are not traditionally taught in classrooms. After interviewing members of Colorado's business community, she found that applicants are not hired because of their inability to make things in collaboration with others, check the quality of products and get good outcomes, move people or objects without delay, be creative, or maintain customer satisfaction. House Bill 1165 specifically targeted five career pathways in order to create well-qualified and marketable job candidates.

Ms. O'Brien gave a breakdown of Colorado's 50 "hot jobs," which were identified based on a labor market index of jobs which are projected to increase by 10 percent each year for the next ten years. When that data was initially collected, it included over 800 specific occupations which she distilled into 50 "hot jobs" that were further assigned to the five pathways outlined by House Bill 1165, representing the five skill sets. The pathways were maintenance, engineering, logistics, quality assurance, and production. Colorado had further refined the information to show students and clients which of the 50 hot jobs were "hottest" in their local areas. She illustrated this by providing the data sheet for the Fort Collins area of Colorado. By portraying which of the hot jobs were most likely to be found in the student's home area, if a student were to pursue certifications in these hot job areas, the student could be virtually guaranteed a job within three to five weeks of graduation/certification and be able to work locally. While using manufacturing as an example, Colorado undertook a similar process for the other industries of healthcare, information technology/software, and construction.

Ms. O'Brien stated that all of this information is provided on a website which provides live data so that as the market changes, Colorado can provide that information and clients/students can respond accordingly. The website also will link individuals to local educational opportunities if they find jobs they are interested in and wish to pursue them. A final feature was a resource of sample resumes drafted by the business community to allow students to see which educational and extracurricular opportunities are best received by potential employers.

Chairman Kerr asked what had prompted Colorado legislators to create House Bill 1165. Ms. O'Brien answered that the fear of losing federal grant money, specifically the Trade Adjustment Assistance, was the major motivating force. A $25 million grant for growing talent for manufacturing could have been lost if the money had not been put to good use in developing talent. Colorado needed to find better ways to increase manufacturing employment and keep industry in the state.

Representative Howard said he had looked at college graduation rates in Colorado versus Kentucky and found that Colorado had a significantly higher number of college graduates. He asked if there were any recommendations to increase the number of qualified job candidates with fewer available college graduates. Ms. O'Brien answered that Colorado has been largely hiring from out-of-state and that it was not a sustainable model. Additionally, most of the individuals who were employed in Colorado were not interested in staying there long term. That was part of the impetus for designing these fact sheets and trying to reach Colorado students in 3rd through 5th grades. This target age group was based on a Massachusetts Institute of Technology study that found that, by 8th grade, most students have already made judgements about industries and are less inclined to consider a career in manufacturing or construction, which are viewed as unpleasant. Representative Howard commented that it made sense to reach out to younger students because by college they were already too set in a pathway to be able to achieve some of the desired skill sets.

Senator Wilson commented that in regards to unfilled jobs in manufacturing, there is a similar situation in Kentucky where the Ford plant in Louisville was unable to fill 1,500 jobs. He asked how this model in Colorado had influenced elementary and secondary curriculum. Ms. O'Brien answered that it had not had much impact on K-12 education because of a reticence of teachers and counselors to dictate careers to students. They would much prefer to encourage students to pursue what they "want" to do and go to four-year institutions. The model has had significant impact on local communities and technical schools, specifically in how they market to incoming students. Senator Wilson stated that it is something that Kentucky is looking at, specifically in terms of aligning with the Every Student Succeeds Act (ESSA) accountability measures and providing incentives to schools targeting local economic development and career pathways.

Representative Meeks asked about the Massachusetts Institute of Technology study and others that show students "bailing out" of education and educational opportunities at an early age and if she could speak more directly to that issue. Ms. O'Brien replied that she would provide the study to the committee members. It also correlated with what is seen in other industrialized nations that "set the bit" regarding careers in manufacturing, information technology, and other industries in the minds of their young people by frequently showcasing them as viable career pathways. The purposeful illustration of viable careers pays off for them, but it is difficult to convince parents and educators in the United States that students can "find their bliss" while also being well paid. One tactic that has proven successful for Colorado has been to take the showcases out of the schools to parking lots and malls where demonstrations of engineering are made using robotics and then providing fact sheets regarding the hot job pathways to the crowds of young people that inevitably gather to watch.

Senator Givens referenced the Fort Collins hot jobs fact sheet where it appears many jobs are gray and therefore less accessible, and the inability to affect real change in K-12 curriculum development, while asking if there is a political will to act on this information and move forward with implementation. Ms. O'Brien answered that while jobs are gray on the fact sheet, they are still hot jobs and that the only real difference is that it make take up to 5 weeks to find employment rather than 5 days and that the jobs may be further away from the central Fort Collins area. As far as political will to act, this information has been very well received by politicians and economic developers who are highly motivated to utilize it. The real struggle is with educators who are stymied by the information because it does not speak to what they know and they do not know how to incorporate it into their curriculum. As part of implementation, staff are having to share the information several times in meetings before it gains any traction.

Ms. O'Brien added that it has been found that field trips to manufacturing locations are less effective than desired because it is difficult to make the connection between what is seen at a location and how that relates to math in a textbook. A better approach has been to provide educators with three month sabbaticals where they are immersed in a manufacturing job, so that when they return to the classroom they can provide more specific, real-world anecdotes as classroom illustrations. These opportunities have been subsidized by industry partners, but have been very successful.

Representative Richards asked how to attract young people if field trips are not exciting. Ms. O'Brien emphasized that field trips can be fascinating, but getting hands-on participation is much better at penetrating the minds of children and adults. The parking lot demonstrations have been good at accomplishing that. The struggle has been more fully incorporating it into curriculum development.

Representative Richards asked how job training is delivered throughout Colorado and if it is effective. Ms. O'Brien answered that it is regionally delivered based on the location of funding provided by federal grants. It would be her recommendation to ask for adjustments to be made to the grants to better align funding with the areas where hot jobs are located. With careful grant writing, it is possible to have money target the regions that will have the best impact on the economy.

Representative Simpson referenced the financial aspect of higher education and the perception of Kentucky's House Bill 1 from the 1997 Regular Session that a more educated workforce meant more college degree and certificate programs. It has since been seen that perhaps more focus on the areas and coursework that students can pursue would be more valuable. He asked if there are any incentives provided by Colorado to students in the hot job pathways. Ms. O'Brien answered that there is not currently any incentive but something like that would be very valuable. At this time, the investment is based on where the grant money is allotted. While that is often in STEM education, it does not specifically target the hot job industries.

Senator Kerr asked about the Stackable Industry Recognized Certificates which are noted on one of the handouts and what those specifically represent. Ms. O'Brien said that it is a term borrowed from the military where smaller certifications build into a larger credential which would have been too much to accomplish at one time. An analogy would be a Boy Scout trying to achieve Eagle Scout. It cannot be accomplished all at once but is accomplished over time, one badge at a time. The stackable credentials are the individual badges which combine to represent a larger industry recognized certification.

Representative Wuchner commented that this kind of credentialing would be especially valuable to existing employees who do not have time to go back to school full-time, but may be able to gather individual credentials over time which would build to a certification that can provide advancement. This would be a valuable pathway for individuals looking to change industries, such as from coal to a growing industry like manufacturing or aerospace engineering. She asked if there were federal grants to support this kind of educational pathway. Ms. O'Brien answered that there is no barrier to current federal funding to any of the ideas presented today but that grants must be written with specific occupations or jobs in mind to be most applicable.

Chairman Kerr thanked Ms. O'Brien for her insightful presentation. She announced that the next meeting of the committee will be September 12, 2016, at 10:00 a.m. Representative Howard will chair that meeting. With there being no further business, the meeting was adjourned at 11:55 a.m.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 3rd Meeting of the 2016 Interim

August 30, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing and Occupations was held on Tuesday, August 30, 2016, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Joe Bowen, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Christian McDaniel, Dan "Malano" Seum, and Damon Thayer; Representatives Tom Burch, Denver Butler, Larry Clark, Jeffery Donohue, Daniel Elliott, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Charles Miller, Jerry T. Miller, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, and Susan Westrom.

Guests: Nick Rellas, CEO, Drizly; Heather Calio, Director of State Government Relations, Wine and Spirits Wholesalers of America, Dan Meyer, Executive Secretary and General Counsel, Wine and Spirits Wholesalers of Kentucky; Derek Hein, Manager for Government Affairs, Draft Kings; Cory Fox, Counsel, FanDuel; Marc Wilson, Partner, Top Shelf Lobby, LLC.

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

Approval of minutes of July 8, 2016 meeting.

A motion to approve the minutes of the July 8, 2016 meeting was made by Senator Julian Carroll and seconded by Representative Jeff Donohue. The motion was adopted by voice vote.

Home delivery of alcoholic beverages.

Nick Rellas, CEO of Drizly, said Drizly is a simple consumer application that can be downloaded from its website. The consumer is connected with local package liquor stores and can order from them. Retailers can deliver orders in as little as 20 minutes. There is no increased charge through the application; the consumer pays the same price charged in the store. The retailer charges a $5 delivery fee. Drizly is not involved in delivery.

The consumer provides Drizly with a delivery location; however, a consumer in a dry area, college campus, or with an otherwise restricted address receives a message indicating that the product is not available in that area. The company is located in about 26 cities and works with hundreds of large and small retailers. The service allows retailers to use the internet to expand their businesses and allows consumers the convenience of online shopping.

Mr. Rellas said that Drizly has worked to ensure that taxes, consumer safety, and underage drinking are taken care of within the system. Retailers are operating within the three tier system, and regulators across the country agree. The internet is changing the way people do business. Massive companies like Amazon take money from local retailers. Drizly, however, ensures that local retailers are making money from this revenue stream.

In response to a question from Senator Schickel, Mr. Rellas said he has not yet spoken to the Kentucky Department of Alcoholic Beverage Control, but generally speaking this is a very benign evolution of regulations. He is not asking for wholesale shifts.

In response to a question from Senator Thayer, Mr. Rellas said Drizly started with small businesses and believes that any business can make money with this model. The agreements are nonexclusive. Drizly only works with alcohol sales and not in grocery sales.

In response to a question from Representative Koenig, Dan Meyer said KRS 244.310 prohibits retailers from delivery of distilled spirits or wine. Delivery of malt beverages is allowed. Mr. Rellas said his company charges a monthly software license fee.

In response to a question from Representative Clark, Mr. Rellas said that ensuring that delivery drivers are of a legal age is the responsibility of retailers.

In response to a question from Senator McDaniel, Mr. Meyer said a 16 year old employee cannot handle alcohol transactions. Employees must be at least 20 years old to handle alcohol transactions. Mr. Rellas said Liquor Barn is on Drizly in Canada.

Senator Bowen commented that the idea is creative, and the free market should be allowed to prevail.

In response to a question from Representative Osborne, Mr. Rellas said the territories are chosen by the stores. Stores may have multiple fulfillment areas.

In response to a question from Representative Jerry Miller, Mr. Rellas said Drizly has a closed feature application. The retailer will have an app that will scan a customer's ID to ensure that it is valid and not expired, and that the customer is over age 21. It allows the driver to enter the forensic features that are available on Kentucky IDs. There is no photo ID provided. The consumer is able to track the driver and rate the transaction.

In response to a question from Representative Santoro, Mr. Rellas said Drizly is active in 23 states.

In response to a question from Senator Thayer, Mr. Rellas said that Drizly stands behind the three tier distribution system.

Fantasy Sports.

Cory Fox, Counsel, FanDuel, said the first fantasy teams were formed in 1980 in New York by a group of sports writers creating "teams" using real baseball players' statistics. By the mid-90s, the first trade association was formed. Fantasy sports took off in the late 1990s with the growth of the internet. Search engines, news stories, and analyses made statistics available. Today there are over 55 million fantasy players in daily and seasonal leagues.

In 2009, FanDuel launched a daily fantasy company. In traditional fantasy sports, the person picks a team at the beginning of a season. A problem is that, if a player is hurt in week two of the season, the team could be out of contention for the rest of the season. The idea of a new team at the beginning of every week was found to have popularity, and it enhanced the part of the fantasy experience that consumers enjoyed.

Derek Hein, Manager, Government Affairs, DraftKings, said DraftKings started in Boston in 2012. Major League Baseball and the National Hockey League are equity stakeholders in the company. The Professional Golfers Association and NASCAR have marketing partnerships. Members in the Fantasy Sports Trade Association include companies providing analytics, research, and tools to become better at looking at statistics and analyzing teams and matchups.

Both FanDuel and DraftKings require age verification when a person registers for an account. Both companies offer free games and games that can be played for money. The most popular game on the DraftKings site costs $3. Players select a team of real-world athletes and accumulate points based on real-life statistics in real-life games. Points are accumulated by individual performance. The goal is to assemble a team of athletes that will score the most possible points. Players can compete against each other or in leagues.

Cory Fox, said last year, due to growth, FanDuel began to advertise. This enabled it to acquire new customers. By last fall, FanDuel operated in 45 states and began to look to verify regulatory status. FanDuel has pending legislation in 38 states. There are three components of the legislation: legal clarity, consumer protection requirements, and regulatory oversight. There are eight states that have passed fantasy sports legislation.

In response to a question from Representative Clark, Mr. Fox said the companies are losing money on advertising. Mr. Hein said that DraftKings and FanDuel are currently operating in Kentucky. Both companies believe that it is important to have legislation that covers the consumer for compulsive behavior, that verifies age, and that keeps the consumer's money separate from the company funds.

In response to a question from Senator Bowen, Mr. Hein said there is a way to factor team defense, but the companies only allow players to draft offensive players.

In response to a question from Senator McDaniel, Mr. Hein said a player winning more than $600 on DraftKings is issued a 1099 form. There are no corporate state taxes paid since the companies are not located in Kentucky. Mr. Fox added that players are generally younger, with a different demographic that horse racing.

In response to a question from Representative Jerry Miller, Mr. Fox said the companies have an agreement with the NCAA to not offer betting on college sports.

In response to a question from Senator Higdon, Mr. Fox said there are some states that have put in place a mechanism to collect taxes.

In response to a question from Representative Koenig, Mr. Fox said five states have gambling laws so expansive that it was believed that fantasy sports did not need legislation. Some states have Attorney General opinions permitting the playing of fantasy sports within their current gambling laws.

In response to a question from Representative Osborne, Mr. Hein estimates about 100,000 Kentuckians play FanDuel and DraftKings. The most popular game costs $3.

In response to a question from Representative Thayer, Mr. Fox said that, in other states, race tracks are not competitors with fantasy sports. Regulation of fantasy sports differs from state to state.

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

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Minutes of the 2nd Meeting of the 2016 Interim

August 18, 2016

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, August 18, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative John Short, Co-Chair; Senators Perry B. Clark, Chris Girdler, Ernie Harris, Jimmy Higdon, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Kevin D. Bratcher, George Brown Jr., Tim Couch, Mike Denham, Jeffery Donohue, Myron Dossett, Daniel Elliott, Richard Heath, Cluster Howard, James Kay, Martha Jane King, Brian Linder, Tom McKee, Terry Mills, Ruth Ann Palumbo, Dean Schamore, Arnold Simpson, Fitz Steele, Wilson Stone, Jeff Taylor, and Russell Webber.

Guests: Erik Dunnigan, Acting Secretary, Cabinet for Economic Development; Luther Deaton, Jr., Chairman, President, and CEO of Central Bank & Trust Company/Vice Chairman, Kentucky Economic Development Partnership Board; James Mallory, Vice Chairman, Lewis and Clark Trust, Inc.

LRC Staff: John Buckner, Chip Smith, and Karen Brady.

Minutes

A motion was made and seconded to approve the minutes of the July 21, 2016 meeting and carried by voice vote.

Kentucky's Economic Landscape – Opportunities and Obstacles

Secretary Dunnigan, Cabinet for Economic Development, stated that Kentucky is on pace for a third consecutive record year for new investments and job creation. Manufacturing is the biggest contributor to the state's gross domestic product (GDP), making up nearly 20 percent. Manufacturing GDP has grown at almost twice the national average since 2008.

Secretary Dunnigan said the cabinet has three focus key areas: access to market, workforce, and business environment. Kentucky's location helps in competing on a global stage. The state is on pace for its sixth record year in exporting, with aerospace leading the way. Main obstacles to overcome in access to market are all related to infrastructure.

Internally, the cabinet is focusing on personnel, becoming more efficient, and engaging in more marketing.

Luther Deaton identified opportunities in tax reform, infrastructure in eastern Kentucky, education, and workforce development.

In response to comments from Representative Donohue, Secretary Dunnigan stated that Brunswick Corporation turned Kentucky down because it is not a Right to Work state. Mr. Deaton commented that it is hard to know how many companies turn Kentucky down over Right to Work status, but consultants tell the cabinet that it happens.

In response to a question from Representative McKee, Secretary Dunnigan stated the cabinet is evaluating each industrial park in the state.

In responding to a question from Representative Linder, Secretary Dunnigan said that the aerospace industry presents the biggest opportunity for Kentucky.

Lewis and Clark National Historic Trail

James Mallory requested a letter of support from the committee for a completed Lewis and Clark National Historic Trail in Kentucky for the period 1803-1809. The trail will allow an increase in cultural heritage tourism and promote preservation of cultural and natural resources.

Mr. Mallory testified that funds are needed for a third printing of the "Kentucky's Lewis and Clark Legacy" brochure and map, which also needs to be included on Kentucky Tourism's website.

Chair Kerr stated that the committee would draft a letter to the National Park Service in support of the completed Lewis and Clark Trail in Kentucky, to be signed by the Chair and Co-Chair. Representative Bechler moved that all members of the Interim Joint Committee have an opportunity to sign the letter. Senator Wilson seconded the motion and it carried by voice vote.

There being no further business, the meeting was adjourned at 2:47 p.m.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 3rd Meeting of the 2016 Interim

August 18, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, August 18, 2016, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Denise Harper Angel, Ernie Harris, Wil Schroder, and Reginald Thomas; Representatives Lynn Bechler, Linda Belcher, Regina Bunch, Larry Clark, Jeffery Donohue, Jim DuPlessis, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Mary Lou Marzian, Charles Miller, Jerry T. Miller, Tom Riner, John Short, Jim Stewart III, James Tipton, and Brent Yonts.

Guests: Caroline Baesler, Executive Director and General Counsel, Kentucky Cabinet for Economic Development; Peter Nicholas Lengyel, President and CEO, Safran USA; and Kris Kimel, President, Kentucky Science & Technology Corporation; Chairman and Co-Founder, Space Tango; and President and Founder, Kentucky Space LLC.

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

Approval of Minutes

A motion to approve the minutes of the July 21, 2016 meeting was made by Representative Belcher, seconded by Representative Bechler, and approved by voice vote.

Aviation and Aerospace Industry in Kentucky

Caroline Baesler, Executive Director and General Counsel, Kentucky Cabinet for Economic Development, gave an update on the aviation and aerospace industry in the state. Kentucky has 60 aviation or aerospace facilities employing more than 15,000 people. The most recent expansion announcement was Safran Landing Systems. Safran is located in Walton, Kentucky and is a $150.3 million investment. It was an expansion of Messier-Bugatti-Dowty and provided an addition of 80 new jobs. Within the past five years, there have been 51 announcements of new or expansions to already existing companies in the aviation or aerospace industry with an anticipated investment of $677 million and 2,318 high wage jobs.

The top five aviation and aerospace employers in the state are UPS, DHL Express, Lockheed Martin, Mazak, and GE Aircraft Engine. The industry employers export to 87 countries including Brazil, United Kingdom, France, China, and Singapore. Also in the past five years, the aviation and aerospace industry has been Kentucky's top growing exporting industry. In 2015 the industry had $8.77 billion of exported products from within the state, which put Kentucky third nationally behind only Washington and California. The trend has continued this year, and as of June 2016 Kentucky is ranked second nationally, surpassing California with a 19 percent increase from 2015. As a result of the industry doubling since 2011, aviation and aerospace products make up a third of all exported products in the state.

The 2015 Regular Session the General Assembly passed HJR 100. HJR 100 directed the Transportation Cabinet, Cabinet for Economic Development, and Commission on Military Affairs to study the economic impact of the overall aerospace/aviation industry in the Commonwealth. Although there are 60 aviation or aerospace facilities in Kentucky, these are only the self-identified companies. Therefore, there may be more manufacturers in the state that service other industries and are not identified as an aviation or aerospace facility as well. The study will assist in obtaining a more accurate total number of aviation and aerospace companies, as well as gathering information about the aviation airport network and the status of aviation and aerospace educational programs being offered to students across the Commonwealth. This will allow for a better understanding of the economic impact on the state and assisting in providing a more adequately prepared and trained workforce within the industry, which will be more appealing to companies that are interested in relocating to Kentucky. Ms. Baesler said that Thomas P. Miller and Associates have been contracted to conduct the economic impact study.

Safran at a Glance

Peter Nicholas Lengyel, President and CEO, Safran USA, gave a presentation about the company's national and global business logistics and operations. Safran is a tier one engineering company and the oldest aerospace propulsion company in the world. Its business is focused in the three areas of aerospace, defense, and security. Fifty-four percent of its sales are in aerospace propulsion, 28 percent are in aircraft equipment, 11 percent in security, and seven percent in defense. Due to Safran being such a high technology focused company, 12 to 13 percent of its annual revenue is invested in research and development. Safran manufactures all aircraft equipment that is responsible for what makes a plane take off, fly, and land safely. It manufactures optronic solutions for all branches of the United States Armed Forces, and it provides security solutions for the FBI and TSA, including fingerprinting and baggage screening systems.

Safran has over 70,000 employees in over 60 countries, with 49,000 in Europe and 14,250 in North America. In the area of commercial and general aviation, it is number one worldwide in single-aisle commercial jet engines through their partnership with GE, helicopter turbine engines, and mechanical power transmission systems; number two in electrical power generation and auxiliary power units for business jets, helicopters, and military aircrafts; and a world leader in aircraft engine nacelles and onboard power electronics. In the area of defense, Safran is number one worldwide for helicopter flight controls, FADEC engine control units for aircrafts through their partnership with BAE Systems; number three worldwide and number one in Europe for inertial navigation systems; number four worldwide for military aircraft engines; and number one in Europe for tactical drones and optronic systems. In the area of security, it is number one worldwide for biometric identification solutions, automated fingerprint identification systems, and computer-tomography explosive detection systems for checked luggage; number two worldwide for gaming terminals; number three worldwide for smart cards; and a world leader in trace detection equipment. In the space industry Safran is number one worldwide in launch vehicles through Airbus Safran Launchers, an equal partnership company between Safran et Airbus Group, number one in Europe for plasma propulsion, and number one worldwide for high performance optics.

In the United States, Safran has 7,000 employees at 58 locations in 22 states. The company makes $1.5 million in purchases every year in the United States that helps economies across the country. Twenty-five percent of its global revenues are generated in the U.S. Some of its leading U.S. technologies include the automated fingerprint identification systems used by over half of U.S. law enforcement agencies, driver licenses and identification issuance technology in 40 states, and 100 percent of the wiring on the Boeing 787 Dreamliner. National customers include Boeing, Airbus, Lockheed Martin, Bell Helicopter, UPS, American Airlines, Southwest, and Delta. United States government partners include the Department of Justice, NASA, and Department of State. Mr. Lengyel described Safran as having a symbiotic relationship with Kentucky. The state's work programs have been fantastic, the energy prices have been competitive, and Kentucky's partners, such as UPS, give the company flexibility to get its products out to its market. Other states that supply Safran a similar type of symbiotic business relationship are Florida, South Carolina, and Nevada. All three of these states have offered Safran incentives for its investment and additions to their economies. He thanked the General Assembly for its open dialogue with Safran, but, because of economic incentives ultimately determining where Safran grows and multiple states competing to give the best offer, if the aerospace industry is going to continue to thrive in Kentucky, then the legislature needs to do what is necessary to win Safran USA's business and ensure the company stays in Kentucky.

Space Tango

Kris Kimel, President, Kentucky Science & Technology Corporation; Chairman and Co-Founder, Space Tango; and President and Founder, Kentucky Space LLC, gave an overview of the innovative and groundbreaking research being conducted by Space Tango. Space Tango enable research and development, bioengineering, and manufacturing in microgravity, particularly in the area of exomedicine. It was formed in 2013 to assist in creating and commercializing a new industry to improve the lives of people on Earth. The idea of Space Tango was initially formed in 2003 when the Kentucky Science & Technology Corporation began to observe the possibility of an entrepreneurial space industry. The company began working with Morehead State University, University of Kentucky, and University of Louisville to design and launch suborbital vehicles that were launched into space from the United States and Russia.

This innovative and progressive work led to Space Tango. Space Tango's goal is to convert and commercialize the knowledge gained through the ideas and technology coming out of Kentucky into the creation of new companies and jobs within the growing space industry. It was created in 2013 as a for profit company that builds technology platforms and conducts experiments for its own gain and interests and for customers around the world. The company recently signed a partnership agreement with Airbus. The area of exomedicine is being explored to test how living systems change and function outside the Earth's gravity. Space Tango is also performing research to examine certain medical solutions outside of Earth's atmosphere and how they can be applied on Earth. For example, Mr. Kimel has met with top cancer specialists at the Dan-Farber Cancer Institute Boston, MA to discuss how cancer would react in the absence of gravity.

Space Tango recently installed its first permanent installation on the international space station, which is a laboratory called Tango Lab 1. The lab designed and built in Kentucky, predominately in Lexington, and has the ability to perform 21 experiments simultaneously. It has a fully automated system that does not require astronauts. Installations such as this are possible due to the rare Space Act Agreement that Space Tango has with NASA that allows them access to the international space station to not only perform research but to manifest launches. Space Tango's office in Lexington is equipped with a mission operation system that gives them 24 hour a day visual and audio data from the space station with a line of communication to the astronauts. Mr. Kimel said that Space Tango has upcoming missions and testing to explore cystic fibrosis, cancer, regenerative medicine, neurobiology, and drug design. He showed a video of Tango Lab 1 being installed at the end of his presentation.

Senator Ernie Harris, a former military pilot, expressed that he was impressed by Safran USA and amazed by the innovation of Space Tango.

In response to Representative Larry Clark, Mr. Kimel said that education and talent development within the state is critical for Space Tango to grow. He said the company employs mechanical, electrical, computer, and biomedical engineers. It is necessary for the legislature to continue supporting the Cabinet for Economic Development because they are very sensitive to growing a technology driven economy. Representative Clark said that it is important to align Kentucky's education system with the needs of emerging areas such as the aerospace industry. Senator Kerr added that Kentucky has 60 to 70 aerospace high schools, which makes up two thirds of all aerospace high schools in the country.

Addressing Representative Brent Yonts, Ms. Baesler stated, in regards to exporting, the aviation and aerospace industry in Kentucky has exceeded that of the automotive manufacturing industry. She also explained there needs to be an alignment between the workforce and workforce partners and mentioned the announcement of programs such as the Work Ready Skills Initiative. Kentucky Federation for Advanced Manufacturing Education (KY FAME) program is addressing the area of partnerships amongst education facilities and private employers to assist with ensuring companies are being provided with a well-trained and capable workforce. Ms. Baesler pointed out the shortage of engineers in Kentucky and the need for workers that can manage advanced manufacturing facilities. There are a number of programs offered such as apprenticeships and dual credit programs that are guiding students in this area.

Mr. Kimel commented that one issue he has seen in Kentucky with growing technology and advanced manufacturing based companies is raising private capital. He said that one important thing the legislature can do is getting the word out about new and progressive companies, such as Space Tango, to attract the type of investors that are needed for growth. After an inquiry from Senator Alice Forgy Kerr, Mr. Kimel explained some different types of investors. Ms. Baesler said that the legislature passed the Kentucky Angel Investment Act that gives a tax credit for angel investors.

Responding to Representative Jerry Miller, Mr. Lengyel said that is the employers' responsibility to work with the local economic development boards and education systems to ensure the companies are being supplied with an adequately trained workforce due to the companies already being aware of what their needs are. The KY FAME program has been extremely helpful with the Safran location in Walton, KY. Ms. Baesler added that the economic study that will be conducted will help with having a better understanding of supplying companies with the workforce they need and how to attract more companies in the aviation and aerospace industry to Kentucky.

Ms. Baesler answered a question from Senator Wil Schroder by saying that the statistics gathered to determine that the aviation and aerospace industry is the largest exporting industry in Kentucky came from the U.S. Census Bureau and the Bureau of Labor Statistics but more information will be available on the impact of the industry after the economic study commissioned by HJR 100 is completed. Addressing a follow up question, Mr. Kimel said that with the growth and progression of the aviation and aerospace industry, there will be displacement of jobs but with that will come the creation of careers that cannot even be imagined right now. Mr. Lengyel also commented saying the aviation and aerospace industry will continue to thrive in Kentucky based on the amount of available investment that can be made into it.

In response to Representative Lynn Bechler, a former aerospace engineer, both Mr. Lengyel and Mr. Kimel confirmed that cyber security is of the utmost importance due to the sensitive nature of the information that they handle.

Answering Senator Reginald Thomas, Mr. Kimel said that the Lexington Space Tango Office is located at 333 East Short Street, Lexington, KY 40507.

In response to Representative Tom Riner, Mr. Lengyel stated that the type of systems Safran manufacturers do not require electromagnetic pulse shielding, although providing such shielding is possible.

Addressing Representative Linda Belcher, Mr. Kimel said that students and others wanting information about the work and research that Space Tango does can visit www.spacetango.com. Representative Belcher suggested the committee visit the Space Tango office in Lexington.

Responding to Representative Brent Yonts, Mr. Kimel said that Space Tango is working with a company in Louisville called Advanced Technologies on 3D tissue manufacturing to assist in manufacturing tissue and cells on the international space station. Bio-manufacturing and bioengineering experiments are being performed in space to be brought back and applied on Earth.

There being no further business, the meeting was adjourned at 11:16 a.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 3rd Meeting of the 2016 Interim

August 19, 2016

Call to Order and Roll Call

The 3rd meeting of the Special Subcommittee on Energy was held on Friday, August 19, 2016, at 10:00 AM, at the Center for Applied Energy Research, Lexington, Kentucky. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Dean Schamore, Co-Chair; Senators Ernie Harris, Brandon Smith, Johnny Ray Turner, and Robin L. Webb; Representatives Hubert Collins, Tim Couch, Jim Gooch Jr., Martha Jane King, Jerry T. Miller, Sannie Overly, Tom Riner, John Short, Fitz Steele, and Brent Yonts.

Guests: Lane Boldman, Executive Director, Kentucky Conservation Committee; Chris Moore, Executive Director, Kentucky Communications Network Authority (KCNA); and Doug Hendrix, General Counsel, KCNA.

LRC Staff: Janine Coy-Geeslin, Stefan Kasacavage, and Marielle Manning, Committee Assistant.

Senator Carpenter said that there are two informational items on the agenda, the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Half-Year Status Report and the Executive Order 2015-574 creating the Kentucky Communications Network Authority (KCNA) and Board, and information on both are in the members' folders. Senator Carpenter introduced Chris Moore, KCNA, Executive Director, and asked members to direct any questions about the executive order to Mr. Moore.

The July 15, 2016, minutes were approved by voice vote and without objection upon motion by Representative Yonts and second by Representative Collins.

Welcome to the Center for Applied Research

Mr. Rodney Andrews, Director, Center for Applied Energy Research (CAER) explained that CAER is part of the University of Kentucky (UK). CAER was created in 1974 by the General Assembly for the purpose of researching, supporting, and growing synthetic fuels from coal and oil shale. In 1988, the General Assembly attached CAER to UK. CAER's mission is to develop more efficient and environmentally acceptable uses for Kentucky's fossil fuels and other natural resources. Mr. Andrews stated that 92 percent of Kentucky's electricity in 2014 came from coal. Today, that percentage has fallen to about 80 percent. Kentucky produces 3.2 percent of all the industrial electricity in the country and approximately two percent of residential electricity. Mr. Andrews explained that CAER focuses on how to reduce the environmental impact of Kentucky's energy production and use. CAER does research and development on how to use byproducts of coal such as coal ash, scrubber materials, and other byproducts of heavy industry consumers. CAER looks at other energy options for Kentucky such as renewable energy sources and low-cost and reliability of electric power. Other issues include energy efficiency, energy security, and promoting economic development. CAER has 153 employees which include students, tech support, scientists, engineers, postdoctoral scholars, and others. Laboratories support mineral processing and fiber development, and a CAER greenhouse and synthesis and pitch laboratory. CAER works in collaborative research groups such as Biofuels and Environmental Catalysis, Power Generation and Carbon Management (largest group), Material Technologies, Clean Fuels and Chemicals, Electrochemical Power Sources (energy storage), and Organic Electronics. CAER's Carbon Capture and Utilization research group partners with utility companies in Kentucky to develop cost-efficient technologies for reducing CO_2 emissions.

There is a $36 million pilot project ongoing at the E.W. Brown Generating Station. Mr. Andrews said that CAER has applied for funding a large scale carbon capture demonstration at LG&E's generating station in Trimble County. If CAER is awarded federal funding, then it would have approximately a $119 million economic impact for Trimble County. The project would demonstrate that the technology could meet the Department of Energy's carbon capture and storage goals of 90 percent CO_2 capture rate and 95 percent CO_2 purity rate at a cost of $40 per ton.

In response to Representative Martha Jane King, Mr. Andrews explained that it would be a chemical scrubbing process. Scrubbers being used now are for sulfur oxides and nitrogen oxides. Scrubbing CO_2 is more difficult than scrubbing sulfur oxides and nitrogen oxides.

Mr. Andrews explained that Tekcrete and Tekcrete Fast is a sprayable, shock proof concrete that sets extremely fast. It would be used on damaged structures. He said that the University of Kentucky and Minova, located in Georgetown, have partnered to develop Tekcrete for use in reinforcing mining seams.

In response to Representative Steele, Mr. Andrews said that Tekcrete is fiber re-enforced that would amount to over 8,000 psi.

Mr. Andrews said that the Department of Energy is encouraging more research on rare earth elements. Rare earth elements are essential to modern life applications such as laptops, tablets, and mobile phones. They occur in coal and other industrial materials. Sufficiently high concentrations would be a huge resource for the country.

Mr. Andrews explained that there is a unique pilot plant coming on line to study coal gasification and create diesel fuel. CAER is focused on developing value-added Kentucky products that can be used to develop batteries and electrochemical capacitors. One last area of research is Organic Electronic. Organic means things that are carbon-based. The focus is on low-cost solutions for energy harvesting. It is the development of organic thin-film transistors, organic solar cells, and organic light-emitting diodes.

In response to Representative Riner, Mr. Andrews said that the carbon fiber program is in a partnership with the Aviation and Missile Research, Development, and Engineering Center at Redstone Arsenal. The materials being developed at CAER are being used as research materials as to how the carbon fiber is standing up to certain situations such as lightning strikes or being hit by a missile.

In response to Representative Yonts, Mr. Andrews said that CAER was not focused on carbon capture storage. However, the Kentucky Geological Survey has done some work on carbon capture storage. CAER has a vendor that buys carbon captured in a project.

In response to Representative Schamore, Mr. Andrews stated that the Trimble County project would be completed in about four and one-half years if it receives federal funding.

In response to Representative Gooch, Mr. Andrews said that there are other types of carbon mitigation options rather than carbon capture and storage, such as mineralization, algae, and reforestation. These carbon mitigation options still have efficiency and technique issues. Mr. Andrews also stated that he had not seen any sources regarding carbon emissions from natural gas surpassing coal emissions.

In response to Senator Harris, Mr. Andrews said there are 117 elements on the periodic table, and many of them have been created.

In response to Representative Schamore, Mr. Andrews stated that CAER receives an allocation from the University of Kentucky. The funds are used for operating expenses and salaries, and some of the funds are used as leverage for federal funds. CAER's general fund budget is approximately $5 million, and the overall budget is around $20 million. Sometimes the legislative budget specifies funds for use toward specific projects. However, most of CAER's state funds come from UK's budget.

In response to Representative Couch, Mr. Andrews said that carbon fiber can be produced from any coal in Kentucky. Some eastern coal and some low ash coal have been used. Gasification can produce a tar-like material. As part of this process, any of the coals can go into the gas fire and produce the material. Mr. Andrews said markets for this fiber will continue to increase. There are new applications where the product will be less expensive to make. The material used for airplanes and for automobiles actually comes from polyacrylonitrile. Pitch, if produced as a byproduct, would be part of a different type of fiber.

In response to Representative Martha Jane King, Mr. Andrews explained that using fly ash in concrete is different from Tekcrete. Fly ash is used in concrete to create furniture and other products. Tekcrete uses a different chemistry. There are several different chemistries for making cement and concrete. With Tekcrete, CAER is changing the formulation, chemistry, and reactions from traditional cement.

The meeting was adjourned for a tour of the facility.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs Minutes of the 1st Meeting of the 2016 Interim

August 23, 2016

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 23, 2016, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Reginald Meeks, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representative Mary Lou Marzian.

Guests: Secretary of State Alison Lundergan Grimes, Lindsay Thurston, Assistant, and Mary Sue Helm, Executive Director, Secretary of State; Maryellen Allen, Executive Director, and Matt Selph, Assistant Executive Director, State Board of Elections.

LRC Staff: Judy Fritz, Karen Powell, Kevin Devlin, Roberta Kiser, and Terisa Roland.

Update of Primary and Preparations for the Regular Election

Secretary Grimes discussed the May primary and November 8th regular election. During the May primary, over 668,000 Kentuckians cast ballots. Preparations are underway for an elections training fair for county clerks before the November elections. All state house seats, half of the state senate seats, and a Supreme Court race will be on the ballot.

On-line Voter Registration

Secretary Grimes stated that Kentucky launched an on-line voter registration system this year as part of its one-stop portal "Go Vote Kentucky." The work for this historic update began in 2015 at the State Board of Elections. The on-line voter registration system permits Kentuckians to register to vote by using their drivers' license numbers and Social Security numbers for identification.

Secretary Grimes explained that Go Vote Kentucky may be accessed to find information on how to register on-line, to update a voter registration, to view sample ballots, to find a polling location, and to allow a member of the military or an overseas voter to request an absentee ballot. The system offers a security feature that the paper based system does not have. Two important features that set Kentucky apart from the other 32 states that offer on-line voter registration are the use of a person's driver's license number for identification and the ability to transfer the signature from a driver's license to a voter registration card.

Secretary Grimes stated that the on-line system, launched in March of this year, has been accessed by over 100,000 Kentuckians, and that over 37,000 on-line applications had been processed. Of the 37,000 applications processed, 11,000 were newly registered voters. The remaining 26,000 applications were voters updating their registrations. Of the newly registered voters, 2,800 are 18 year olds; this will be their first opportunity to cast a ballot.

Secretary Grimes said the new system is decreasing costs to county clerks through paper reduction and by speeding up the voter registration process as well.

Matt Selph, Assistant Executive Director of the State Board of Elections, gave a brief overview of the electronic E Poll Book Pilot (EPBP) project. Mr. Selph said the State Board of Elections partnered with six county clerks during the May primary to participate in the pilot program.

Mr. Selph stated that an iPad Mini with drivers' license and other information was utilized. When a voter signed in, he or she placed a driver's license on the scanner, and the person's signature roster appeared within a few seconds. Voters without a driver's license searched for a credit card or other authorized means of voter identification.

Mr. Selph said that, out of the six counties chosen for the pilot program, the average check-in time was about one minute compared to three to five minutes for those not part of the pilot, that 79 percent of voters used their driver's licenses, that 21 percent used other authorized forms, and that clerks, voters, and precinct election officers praised the EPBP program.

Senator Bowen wanted confirmation that this system could validate a person's identity through their Social Security number and that all information used during validation would be trackable. Secretary Grimes said that there is more security with the on-line voter registration system than there is currently with paper because the paper-based system does not require that a Social Security number be provided.

Senator Bowen wanted to know how many other states have similar on-line voter registration systems. Secretary Grimes said Kentucky is the 32nd state with an on-line system. Senator Bowen ask how many new registrations had utilized the system. Secretary Grimes said over 100,000 people have accessed the system and that 37,000 applications have been processed.

Senator Thayer asked for a bi-partisan breakdown of the 11,000 new voters who registered on-line. Secretary Grimes said approximately 37,000 applications had been processed, and approximately 26,000 are updates to voter registrations.

Senator Thayer followed asked for the total number of on-line voter registrations and how many were registered for each of the two main political parties. Secretary Grimes said there are 3.2 million registered voters in Kentucky, and that Democrats outnumber Republicans in terms of major party registration. In November 2015, there was an increase in Republican registrations across the state.

Secretary of State Grimes gave a PowerPoint presentation. No copies of the presentation were given to the task force members.

Overseas Military Voting

Matt Selph stated that the Secretary of State's Overseas Military Program reached out to military and overseas citizens during the 2014 election cycle to facilitate the timely receipt of ballots by county clerks. Even so, 311 ballots were rejected as untimely. There are 3,000 absentee ballot applications from military and overseas citizens currently in the system.

Secretary Grimes said this would be the first presidential election cycle in which Kentucky's military and overseas voting platform will be in effect. She stated that, the next time she appears before the committee, she and her staff will be able to discuss the work in this presidential election cycle with the overseas and military voting system. Secretary Grimes encouraged the renewal of the task force created in 2013 SB 1 to address the military and overseas voting portal and to explore possible legislation to allow county clerks an additional three days to count a ballot that was dated and time stamped prior to an election date, solely from military and overseas voters.

Senator Bowen suggested using a proxy system that, if someone is going to be deployed, would allow the person the opportunity to sign a proxy that would allow someone else to cast his or her vote.

Secretary Grimes said that the Constitution of Kentucky, privacy concerns, and various law enforcement issues would need to be addressed. A proxy would change Kentucky's entire system, which has been relied on for centuries.

Chairman Meeks asked how the 311 rejected ballots had been analyzed. Secretary Grimes said the rejected ballots had not been received in time to be counted. She stated that there has not been a step taken to reduce the hurdle our military and overseas voters face as it relates to transmitting a ballot back to the state securely and in a timely manner.

Lindsay Thurston, Assistant to the Secretary, said that according to Secretary Jay Johnson with the Department of Homeland Security, there is no credible threat to cyber security relating to elections. Elections are controlled by each state; there is no centralized system nationwide. She explained that voting systems are not connected to the internet, but rather are connected to a closed network separate from the internet.

There being no further business, the meeting was adjourned at 2:00 p.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting of the 2016 Interim

August 24, 2016

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 24, 2016, at 10:00 AM, in View Pointe Hall of the Muhammad Ali Center in Louisville, Kentucky. 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, Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representatives Linda Belcher, George Brown Jr., Ron Crimm, Mike Denham, Jim DuPlessis, Adam Koenig, Brian Linder, Michael Meredith, Phil Moffett, Jonathan Shell, Arnold Simpson, Chuck Tackett, James Tipton, and Jim Wayne.

Guests: Representative Tom Riner; Peter Goodmann, Division of Water, Daniel Cleveland, General Counsel, and Haley McCoy, Energy and Environment Cabinet; Talina Mathews, Stephanie Bell, Andrew Melnykovych, and David Spenard, Public Service Commission; Roger Recktenwald and Shellie Hampton, Kentucky Association of Counties; Brian Zoeller, Bingham Greenebaum Doll (BGD); Steve Estes, Star Energy Holdings; Deborah Bilitski and Sara Massey, Louisville Metro Government; Tom Fitzgerald, Kentucky Resources Council; Carol Travis Clark and Yolanda Walker, California Neighborhood Leadership Council; Martina Kennecke, Planning and Preservation, Inc.; Bert May, Kentucky League of Cities; Ron Wolf, Associated General Contractors of Kentucky; Mary Woolridge and Aaron Horner, Louisville Metro Council;

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

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Approval of Minutes

Upon the motion of Representative Tipton and a second by Representative Crimm, the minutes of the June 22, 2016 meeting were approved.

Regarding the topic of package sewer treatment plant abandonment, Senator Bowen stated that, for various reasons, owners of package sewer treatment plants sometimes become unable to run the plants and then may cease operations without provision for continuance of sewage treatment. This places the users in a precarious position and can put pressure on city and county resources to try to fill the gap left by abandonment. Spurred by this situation, 2016 HB 261 was passed which puts in place fiscal safeguards for future package sewer locations and the subsequent approval by the Public Service Commission. In addition, it also places notice requirements of the prospective utility's location to state and local governments, as well as the Attorney General.

The issue of bio-digester location is got its prominence recently in Louisville with the potential location of a bio-digester plant within Louisville Metro. A bio-digester unit takes waste materials and processes them, producing methane. During the past winter, Louisville was dealing with the potential location of a bio-digester in the West End. Louisville Metro placed a six-month moratorium on the location until a policy could be established to provide for the location of the units in a deliberate way. While this has most recently been an issue in Louisville Metro, it has application throughout Kentucky.

Representative Riggs commented that the committee needs to be updated on these two issues. He also encouraged them to tour the Muhammad Ali Center and attend the State Fair while in town.

Package Sewer Treatment Plant Abandonment

Mr. Peter Goodmann, Director of the Division of Water (DOW), said that DOW implements most of Kentucky's water regulatory programs, including the Clean Water Act. DOW regulates package wastewater treatment plants (WWTPs) via Clean Water Act discharge permits that require dischargers to meet technology and water quality-based standards. Package plants are operated by private utilities or are owned by neighborhood associations, school boards, or other entities, including the Kentucky Transportation Cabinet at state interstate rest stops. Package plants serve housing developments, subdivisions, mobile home parks, apartment buildings, campgrounds, and small businesses, and are generally located away from municipalities and other regional wastewater treatment collection and treatment facilities.

There are between 500 and 600 package WWTPs with Clean Water Act discharge permits. Thirty to sixty are regulated by the Public Service Commission (PSC). Most package plants date to the 1970s and 1980s and have significantly exceeded their design life. Older, poorly-maintained infrastructure leads to poorer treatment and lower quality of effluent, which leads to water quality and public health problems. These plants sometimes have aesthetic issues. They can become inundated with ground water because of cracked piping, and can be inundated with other sources of water inflow, such as that from sump-pumps. They often have trouble conducting advanced treatment to meet modern standards.

The demographics of the owners of these plants are changing. Many owners are older, and homeowner associations that own them may no longer be capable of operating them.

The PSC regulates the abandonment of regulated WWTPs via KRS 278.021, which establishes the criteria and process for removing and replacing owners/operators due to factors such as sudden death and insolvency. DOW works with PSC to identify interim and permanent solutions. However, non-PSC regulated package plants with discharge permits far outnumber those regulated by the PSC. In many cases, the responsible party lacks the technical, financial, and managerial capacity to operate the system. Many of the systems are not sustainable and will eventually fail physically, or the operators of the facilities will seek relief from local governments or other responsible entities. Compliance failures result in impacts to water quality and potential public health risks.

Rates often do not reflect the true cost to treat the waste flow or maintain infrastructure. Consequently, little or no investment is made in infrastructure repairs and upgrades because of insufficient capital.

The facilities generally serve economically challenged customers, have numerous vacancies, and experience high rates of people not paying their utilities. There are limited options for income challenges. The communities that are experiencing abandonment are looking to other regional facilities, municipalities, sanitation districts, water districts, and local governments to take over operation and maintenance of the package plants. Options include rehabilitating the WWTPs or otherwise connecting the system to an existing regional wastewater system. Solutions are site-specific and can be very complicated. Entities may not have the capital, the capacity or the authority to take on a system. Sometimes entities exist only on paper, have no assets, and are starting from scratch such as Farmdale Sewer District in Franklin County and Harrison County Sewer District. Certified wastewater operators working for other systems are hesitant to take on a system that is out of compliance and run poorly without guarantee that their license and livelihood will not be jeopardized.

In the previous 20 years, DOW has dealt with approximately five abandoned package WWTPs. Half of them were abandoned because the responsible party had died. Over the past two years, DOW has seen seven package plants go through abandonment of one form or another. DOW expects the trend of abandonment to increase over the next several years before leveling off.

Long-term solutions need to be identified for the systems. DOW is working with the Kentucky Infrastructure Authority (KIA) to tier/prioritize the WWTPs based on the age of the system, number of customers, potential for regionalization based on proximity to another system, willingness to be taken over by a local government or local entity, and creation of new entities. As abandonments occur, DOW is working with the PSC, KIA, local governments, sanitation and water districts, and potential receivers to identify a way forward. A funding source needs to be identified to provide capital and an incentive to potential interim and long-term owners and operators to take on the facilities. KIA has provided $500,000 in FFY 2016 State Revolving Funds (SRF) to two local government entities to take on abandoned facilities. Another $500,000 is identified for similar purpose in the FFY 2017 SRF Intended Use Plan. These funds are only for capital improvements and not for operation and maintenance.

Enforcement of violations is needed against permittees and operators of package WWTPs. Penalties on undercapitalized systems and with low revenue streams often can make repairs even more difficult. DOW's goals are compliance and a long-term sustainable solution. Enforcement can push owners and operators of package WWTPs to abandon the facility.

Mr. Andrew Melnykovych, Communications Director for the PSC, discussed utility abandonment procedures. Abandonment does not equate to closure. Abandonment establishes an orderly process to address those situations in which an owner is no longer able, or willing, to operate a utility in a way that provides adequate services. KRS 278.020 and 278.021 establish an orderly process for the abandonment of a jurisdictional utility. There are two forms of abandonment: voluntary and functional (involuntary). Voluntary abandonment is where the owner/operator of the utility seeks to relinquish control and asks the PSC to declare the utility abandoned. Functional abandonment is where the PSC determines the existence of an imminent threat to health or safety of the customers or to the continued availability of utility service and initiates an abandonment case. In both types of abandonment, the statute directs the PSC to declare a utility abandoned if certain conditions occur with respect to the operations or financial viability of the utility. Financial non-viability tends to be the underlying in both types of abandonment.

Examples of issues leading to abandonment are: inability to get financing for capital improvements; inadequate cash flow for operations at current rates; unsustainability of rates necessary for adequate financing or operations; failure to pay wholesale suppliers, which is more prevalent in gas utilities; and loss of wholesale supply unrelated to financial issues.

The PSC's process in abandonment proceedings includes (1) required notice from sewer utilities to a number of entities, including local government, (2) investigation, (3) hearing, (4) possible receivership, and (5) disposition, which would be either a return to the owner, liquidation, or closure. The PSC views abandonment as a last resort. Every abandonment case considers what options are available to provide continued service under the current operator. The PSC's goal is to provide for continued operation of the utility. This usually means finding a new owner/operator. If continued operation of the utility is not possible, the PSC will seek to arrange an orderly closure that gives customers enough time to make alternative arrangements for the service provided. This may be done under the supervision of a receiver.

Cedarbrook in Harrison County is an example of a successful disposition to an abandonment issue. The Harrison County Sanitation District had been formed to take over the utility and operated as a receiver until it took over the utility services for Cedarbrook.

Mr. Roger Recktenwald, Director of Research Planning with the Kentucky Association of Counties, said that the more significant and consequential impacts of a system abandonment are visited mostly upon its customers. Mechanical devices must be maintained and updated over time. Utilities' operations are ensured by regular inspections. The mechanical devices within utilities have an expected life and preparations must be made in order to not surprise customers with these expenses when the devices must be replaced. The customers of the plants must be the focus of managers, regulators, funding agencies, and others having involvement with the plants.

There has been a rash of abandonments. Package treatment plants operate differently than large, private, or public systems. The failing small package treatment plants have been charging rates lower than other treatment facilities.

Legislative and regulatory measures could further protect the customers and owners of existing, private wastewater systems in trouble, and assist with the results of a system abandonment when it occurs. These measures include: (1) consolidating DOW and PSC inspections and reducing the number of inspections on consistently complying systems, and increasing inspections on persistent violators; (2) granting inspectors greater flexibility and greater enforcement authority, requiring them to provide hands-on technical assistance and giving them the responsibility to follow-through to the point of problem resolution before making a referral to the Division of Enforcement; (3) devising and implementing formal, mandatory training for all owners/managers of private wastewater systems, similar to the trainings provided to board members of public systems set out in KRS Chapter 74 and conducted by the PSC; (4) encouraging KIA and DOW to continue the support provided to public utilities assisting with the aftermath of a system abandonment, through the SRF Program and possibly other targeted incentives; (5) requiring each private wastewater system to establish and fund a "facility replacement escrow account" for major equipment repair or replacement in the event of abandonment. The funds deposited in the account would be generated by customer contributions built into the system's monthly rate structure, as approved by the PSC, and be accrued over time until a not-to-exceed amount has been reached. The use and control of the account would be limited exclusively to the entities that accept the responsibility of continuing the service to those customers affected by a utility abandonment. Funds accrued in the escrow account would not be considered a system asset and any funds withdrawn by the new owner would require prior authorization by the PSC; and (6) considering new legislation or regulations authorizing DOW to require a bond, in an appropriate dollar amount, for each permit holder of each private wastewater system, as a condition of granting a permit or for permit renewal that would be payable to the entity taking over the services in case of an abandonment. Kentucky law requires surety bonds for new facilities but does not require bonds for existing facilities.

Representative Riggs commented that bonding is a tool that is missing. A complaint that is expressed is that the PSC would not allow an adequate rate for the operation. Mr. Melnykovych stated that the rate-making process starts with the utility asking for a rate. A financial analysis involving necessary operational and capital needs accompanies rate increase requests. A problem has been that utilities are not seeking rate increases.

Representative Tipton commented that funding is imperative, and he favors the idea of alternative funding whether it be performance bonds or escrow accounts. Mr. Goodmann said that bond availability can be problematic and is concerned about mass abandonments. Appropriate rates are important. Mr. Melnykovych said bonds would be difficult to administer. The facilities were not intended to be permanent. Mr. Recktenwald added that the use of bonds needed to be researched. Package treatment plants will continue to be a useful tool.

Representative Belcher commented that incremental ways for funding plants needs to be reviewed. There has been a failed plant in her district since 2014, and something needs to be done because the affected citizens do not have time to wait.

In response to a question from Representative Belcher, Mr. Goodmann said that inspectors have access to engineers when a plant needs repairs. DOW has the power to enforce issues related to structural integrity of the plants.

Representative Belcher stated that Mr. Recktenwald made excellent suggestions.

In response to a question from Representative Wayne, Mr. Goodmann said that a developer has to submit a rigorous application for a permit to start a sewer package plant. Mr. Melnykovych added that the developer would have to come to the PSC for initial rates when the plant charges rates for service.

In response to a question from Senator McGarvey, Mr. Melnykovych said that in the last 3 years there were 7 utility requests for abandonment—not just from package sewer plants. A plant cannot be turned down for consideration for abandonment. The law states that the plant would be declared abandoned if the statutory conditions are met.

In response to a question from Representative Moffett, Mr. Goodmann said that since states operate in different manners, a best practice example is difficult to determine. Mr. Recktenwald noted that a conscientious developer would secure a certificate of need for the plant and apply for appropriate rates from the PSC. Mr. Melnykovych said that Arizona and California have unique procedures for abandonment.

Representative Linder commented that the problem is undercharging of rates.

Bio-Digester Location

Senator Bowen stated that he promised interested parties that the committee would discuss bio-digester location during the interim and that this meeting fulfills that promise.

Ms. Deborah Bilitski, Director of Develop Louisville with Louisville Metro Government, said that in February a six-month moratorium was put in place for bio-digesters to study the issue. In concert with public hearings, an ordinance was proposed and that the proposed ordinance from the Planning Commission to Louisville Metro Council included the following recommendations: (1) a bio-digester may be permitted in the M-3 zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements; (2) a bio-digester shall be a minimum of 2,640 feet from the nearest existing residential use, residentially-zoned property, college, school, institution of learning, religious building, park, playground, community center, hospital, nursing home, or assisted living facility; (3) vehicles delivering feedstock to the bio-digester shall not be offloaded until parked inside a fully enclosed receiving building; (4) all storage and process tanks shall have a berm with a concrete barrier to contain spills; (5) noise and landscaping standards are required that include full screening; (6) odor mitigation plans are required; (7) an emergency response plan is required; (8) traffic analyses are required to be submitted to the agency responsible for transportation planning; and (9) all biogas condensate shall be discharged into a sealed drainage system or recirculated back into the digester. Liquids may be discharged into a sewer only as approved by the Metropolitan Sewer District, or may be taken off-site in a closed tanker.

Mr. Brian Zoeller, with Bingham Greenebaum Doll, noted that Representative Riner's bill from the 2016 legislative session intended to place controls on bio-digesters but did not become law. Louisville's proposed zoning regulation is not supported by comparative regulations in other jurisdictions, is not supported by the science of anaerobic digesters, and is not consistent with other urban digesters operating throughout the country. One size does not fit all when it comes to regulating anaerobic digesters. Throughout the country, there are agricultural-based digesters, over 1,200 wastewater treatment plants using an anaerobic digester (municipalities, industrial—food and beverage, breweries, distilleries, and food manufacturers), and 38 standalone (non-agriculture and non-wastewater) anaerobic digesters (transfer stations and municipal solid waste).

There are several examples of existing urban-based anaerobic digester projects, which would not be allowed given the rules proposed by the Louisville Metro ordinance, and include locations in Brooklyn, New York, where tours of the plant are conducted; Louisville (Morris Forman WWTP); Bradenton, Florida (Tropicana Plant); Comstock, Michigan (Bells Brewery); Compton, California (Kroger Distribution Center); Buckner, Kentucky (Conagra Food Processing Facility); New Albany, Indiana (General Mills Plant, which is now closed); and Disney World, Florida (Harvest Power).

The food and beverage industry is the second largest industry in Kentucky and employs almost 50,000 people. The facilities typically generate waste streams that are well-suited for treatment using anaerobic processes. Digesters remove constraints for growth, facilitate expansion and job creation, and reduce stress on municipal systems such as wastewater treatment plants. Food and beverage companies in Louisville that could benefit from digesters include: Papa Johns, Dean Foods, Krispy Kream, Kellogg's Snacks, Sysco, and Heaven Hill.

Waste streams are close to people. The potential risks of anaerobic digesters are mitigated when they are designed safely. There is limited energy content on-site which is approximately half of the energy of one tanker of gasoline. There is a narrow range for biogas to be explosive. The plants are built in compliance with fire codes, and ignition sources are limited. The plants include monitoring equipment, and the gas is contained at low pressure. Methane is lighter than air, so if there is an escape, it will dissipate. In addition, there are odor controls that are put in place.

Mr. Steve Estes, Chief Executive Office, Star Energy Holdings, said that his company had been working on anaerobic digesters in Kentucky since receiving an invitation to work on the food port in West Louisville. The technology for bio-digesters came from Europe which has 13,000 digester plants. The energy derived from digesters in some instances is used to heat homes, and digesters have been located in the neighborhoods containing the homes.

At the local level, his company has worked hard to educate people on the safety of these projects. No one disputes the necessity for waste diversion and the safety of these projects. The company has partnered with General Electric and has municipal solar installations in Benham in Harlan County, Kentucky.

Ms. Carol Travis Clark, California Neighborhood Leadership Council, noted that West Louisville is inundated with environmental injustices. Residents have respiratory disease from industrial and chemical factories. Anaerobic digesters are not conducive to being located in neighborhoods because of the gaseous products that they produce. The risks that accompany these gasses are explosions, fires, asphyxiation, hydrogen sulfide poisoning, disease and odor. The location of a digester will lower home values and raise insurance costs. The residents of the neighborhood want to feel safe.

Ms. Martina Kennecke, President of Neighborhood Planning and Preservation, Inc., (NPP) explained that in 2015, NPP joined with West Louisville neighborhoods, community advocacy groups, environmentalists and many concerned citizens to halt the construction of two methane plants in West Louisville Neighborhoods. During a visit to Louisville in 2015, an EPA official noted that the close proximity of the proposed anaerobic bio-digesters to residential spaces in Louisville would set a precedent. She said that no one from NPP would say that this technology should be ignored, as there is a garbage problem. There is a need to deal with waste. A loop using that waste to provide energy would be better than a linear approach.

The original plan indicated that the energy products would be shipped out of state. A favorable plan would benefit residents of Kentucky in terms of reduced energy costs. The original proposal would have the local neighborhoods bearing the costs and providing benefits to persons outside of the neighborhood and the state.

While the Brooklyn, New York digester is pretty, there are no homes across the street. The Disney location is guaranteed to have no unpleasant sights or odors. The local California neighborhood proposal has homes across the street, and pedestrians and traffic are in close proximity to the plant. Concerns with malicious intent regarding the plants and terrorism are ever-present.

The second proposed site off of Muhammed Ali Boulevard had homes about a block and a half or more from the site. The streets are narrow, and the truck traffic would disrupt quality of life in the neighborhood.

The plan seemed rushed. The group wanted more deliberation in the plan and expressed concerns about the developer.

During one of the preliminary meetings last year with Councilwoman Woolridge representatives of the project indicated that odors would not be present. A statement by an employee of the federal Environmental Protection Agency indicated that some plants had odors and some did not.

Keeping the plants profitable often necessitates a change in plan. The stillage from Heaven Hill, for example, may not be enough to keep the plant in operation. A plant in Wisconsin did suffer an explosion of one of its digesters.

The technology will come on like gangbusters. What the group is asking for is good planning and that Kentucky developers benefit.

Mr. Tom Fitzgerald, Executive Director of the Kentucky Resources Council, deferred his allotted time to speak, but noted Representative Riner's and Metro Councilwoman Wooldridge's involvement in the issue. The process works. A flexible, nuanced, and metered ordinance that is not "one size fits all" and that tries to ensure that these types of facilities are compatible with nearby land uses is being sent to the metro council for consideration.

Representative DuPlessis commented that some bio-digesters have a smell and some do not. Government should not dictate who builds the plants as long as the plants are engineered correctly and according to established standards. There needs to be legislation that enforces strict guidelines for odor and safety, but is not restrictive to the technology. He would like to see a balance.

Ms. Kennecke agreed, but suggested that engineers' primary concern is whether the plant is working correctly technically. They do not have the day to day experience which speaks the truth for the community. Who brings the technology is not a decision of the government, but is a decision of the public regarding who could be their potential neighbor.

There being no further business, the meeting was adjourned at 11:55 a.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 2nd Meeting of the 2016 Interim

August 24, 2016

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, August 24, 2016, at 12:00 noon, at the Muhammad Ali Center in Louisville, Kentucky. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, Stan Humphries, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representatives Kevin Bratcher, John Carney, Jim Gooch Jr., Derrick Graham, Kenny Imes, James Kay, Martha Jane King, Mary Lou Marzian, Suzanne Miles, Phil Moffett, Brad Montell, Tom Riner, Steven Rudy, Sal Santoro, and Rita Smart.

LRC Staff: Judy Fritz, Jennifer Black Hans, Bo Cracraft, Karen Powell, Kevin Devlin, and Peggy Sciantarelli.

Approval of Minutes

The minutes of the June 22 meeting were approved without objection, upon motion by Representative Yonts.

Senate Bill 2 (2016 RS) – Analysis and Discussion of National Trends

Jennifer Hans and Bo Cracraft, LRC staff, presented an overview of SB 2 and the various proposals that arose from that legislation during the 2016 regular session of the General Assembly. In conjunction with a slide presentation, staff reviewed the proposals in SB 2 and analyzed certain key aspects and national trends relating to the proposals. (Ms. Hans and Mr. Cracraft gave a similar presentation to the Public Pension Oversight Board on June 27, 2016.)

Ms. Hans reviewed the significant components of SB 2 and the Senate committee substitute to HB 449—both passed by the Senate—and a proposed House committee substitute to SB 2. She said that both the Senate and House versions would require the Judicial Form Retirement System (JFRS) to create a Web site for purposes of transparency. JFRS subsequently decided to do so, and a functioning Web site is now in place. Although Kentucky Retirement Systems (KRS), Kentucky Teachers Retirement System (KTRS), and JFRS have chosen to ban the use of placement agents, the legislation would require this by statute. Both the Senate and House versions addressed investment experience required of KRS board members; reporting of investment expense; public disclosure of contracts and exemptions to disclosure; reporting of investment return; addition of legislative members to the Public Pension Oversight Board; and adherence to Chartered Financial Analyst (CFA) Institute standards. SB 2 would place KRS, KTRS, and JFRS under the Model Procurement Code, but they would remain exempt under the House version. SB 2/GA would require Senate confirmation of appointed KRS/KTRS trustees and the executive director and also would place KRS under the state personnel system; HB 449 SCS and the House proposed substitute would not. The Senate version also proposed adding members to the KTRS board.

Ms. Hans reviewed the governor's Executive Order 2016-340, which was issued June 17, 2016, and contained provisions similar to SB 2. The order abolished the KRS Board of Trustees, replacing it and transferring its powers to a KRS Board of Directors. It expanded the board from 13 to 17 members; reappointed 13 existing trustee positions; added four new appointed trustee positions, for a total of 10 appointees; required six appointed trustees to have investment experience as defined by KRS 61.645; and provided that the governor shall name the chairperson and vice chairperson. Effective 90 days from issuance, the order would place KRS staff—except the executive director—under the state personnel system and apply CFA Institute standards to the KRS staff, board, and outside managers. Effective July 1, 2016, it required posting to the KRS Web site of all investment holdings, fees and commissions—including underlying managers in Fund of Funds—profit sharing, carried interest, and partnership incentives; and all contracts or offering documents for services, goods, or property purchased by KRS. Ms. Hans said that litigation challenging the executive order was filed by the Attorney General and two existing members of the board of trustees. Franklin Circuit Judge Phillip Shepherd issued a temporary order for injunctive relief on August 22 that addressed several of the governor's executive orders. His ruling enjoined the removal of a KRS board member but upheld Executive Order 2016-340, which is now in full effect.

Ms. Hans and Mr. Cracraft discussed their analysis of the Model Procurement Code (MPC), investment expense reporting, contract disclosure, and board composition, including the approach taken by other states.

Ms. Hans said that Kentucky Retirement Systems was exempted from state purchasing laws in 1972. In 1978, KRS 61.645 granted contracting authority to the KRS board and exempted it from the MPC, which went into effect that year. Justification for the exemption was that the board had an independent fiduciary responsibility to its members that should be reflected in statute. In 1994, however, the legislature amended the statute to remove the MPC exemption but restored the exemption in 1998. KRS has a written procurement policy, adopted by the board, which requires bidding or a request for proposal (RFP) for any contract over $40,000. The MPC requires contract authorization for any amount over $20,000 or a limit granted by the Finance and Administration Cabinet.

KTRS was exempted from state purchasing laws in 1972. In 1978, when MPC went into effect, KRS 161.340 granted contracting authority to the KTRS board and exempted it from the code. KTRS has a written procurement policy adopted by the board, with a threshold of $30,000, above which it recommends that bidding or an RFP be executed.

JFRS was subject to the MPC prior to 1994 but was exempted in 1994 when HB 183 amended KRS 21.540. Justification for the exemption was to conform JFRS to the other retirement systems and avoid the "tremendous burden" imposed by the MPC contracting process. It was also felt that changing providers could be detrimental to the funds. KRS 21.540 grants contracting authority to the board without MPC limits. JFRS has no written procurement policy but implements an RFP process for its investment brokers.

A survey of 50 states and the District of Columbia indicates that 29 states (57 percent) do not exempt their state retirement system from a model procurement code, and 20 states (39 percent) have an explicit exemption for their state retirement system. The status in two states was indeterminable. Illinois exempts its retirement system from the model procurement code but requires by statute that the system adopt a written procurement policy. Of all states analyzed, Illinois most closely mirrors the provisions of SB 2.

Senator McDaniel asked whether the 29 states with no MPC exemption have better-funded pension plans than the Kentucky Employees Retirement System (KERS) nonhazardous plan. Ms. Hans said that several of the 29 states have better-funded plans. Mr. Cracraft noted that few states, with the exception of Illinois, have worse funded plans than KERS.

The staff slide presentation indicated that a lack of clear reporting standards for investment expense reporting has created ambiguity, specifically as it relates to alternative asset strategies. This has led to a wide variety of reporting within the industry. Governmental Accounting Standards Board (GASB) statements 25 and 67 leave the decision up to individual funds. The desire for transparency and consistency in reporting is reflected in standards of the Institutional Limited Partners Association (ILPA). Ms. Hans noted that the ILPA standard was discussed at the recent annual meeting of the National Conference of State Legislatures.

Mr. Cracraft said there has been much public discussion about transparency relating to management fees paid in Kentucky and surrounding states and whether the use of placement agents is appropriate. Plans the size of KERS and KTRS are generally not using placement agents. When dealing with firms that employ them, placement agents can be written out of transactions. Most plans are reporting some or all of their management fees, which are flat or percentage-based fees paid regardless of performance or markets and which are typical for traditional assets. Management fees are generally calculated from a base percent of assets and invoiced monthly or quarterly. Alternative assets also have management fees, generally a flat one or two percent of assets or of assets that have been committed to the general partner. Incentive or performance fees, which include carried interest and portfolio company fees, are fees tied to performance. They are typical for private equity, hedge funds, or other alternative assets. Plans that have private equity or alternative partnership agreements are paying carried interest. Most plans are not reporting carried interest as an expense but are netting it against the income of the fund. Kentucky Retirement Systems—and plans in South Carolina and Missouri—are reporting private equity carried interest or incentive related fees. Some plans include a note in their financial statements that they are paying it but do not disclose the amount.

Plans the size of KERS or KTRS often incorporate a fund of funds portfolio. (Fund of funds is an investment strategy of holding a portfolio of other investment funds rather than investing directly in stocks, bonds, or other securities.) Typical plans do not report underlying "child" fund expenses. Fees are netted against net asset value of portfolios. Only "parent" manager fees are reported. KRS utilizes its fund of funds for hedge fund investing, whereas KTRS's fund of funds invests in private equity. Fund of funds managers charge a management fee and an incentive or performance fee. They monitor the portfolios and are responsible for reallocating within them. The underlying funds have fees as well. Historically, those are not being reported at the plan sponsor level—the KRS level—but are netted out of performance. SB 2 GA/HB 449 SCS would require expenses to be disclosed by the manager, including underlying fund of funds; disclosure of all alternative incentive arrangements such as carried interest, profit sharing, and performance fees; and disclosure of "net of fee" return information. The House proposal, to the extent information is available, would require disclosure by individual managers and partnerships, including reporting of fees paid for profit sharing, carried interest, and partnership incentives—all in accordance with ILPA standards. The House proposal calls for a good faith effort by the systems to gain information and did not include reporting on fund of funds.

KRS is asking all its private equity and hedge fund managers to provide fee information on a quarterly basis. They are receiving about 98 percent of the information requested; the remaining two percent generally represents managers with whom they are no longer doing business.

When Representative Montell asked about the extent of the fund of funds portfolios, Mr. Cracraft said most plans start with the fund of funds route and, as they become comfortable, reallocate a portion directly with managers. KRS is in the midst of that process and at the recent investment committee meeting indicated it will have about five percent of the total fund allocated to fund of funds. KTRS has less than a one percent fund of funds allocation—for private equity—which accounts for only about 5.9-6.5 percent of its portfolio. Although KTRS may have only one-half percent in fund of funds, it may include 30 private equity underlying partners. KRS may have 60 underlying managers in its one fund of funds. With that size portfolio, aggregating the information becomes an administrative burden.

Senator Bowen reminded the committee that the funding situation in Kentucky is direr than in any other state, except for Illinois. Other states have also achieved better investment returns than Kentucky.

Staff's slide presentation indicated that the lack of a standard has resulted in a variety of reporting. Only a handful of plans are meeting 2016 legislative mandates. Mr. Cracraft said that Kentucky plans have taken different approaches. KRS has about 98 percent of its private equity and hedge fund fees incorporated into the most recent fiscal year numbers. KRS is only reporting fees at an asset class level, not a manager level. KTRS is treating carried interest as profit sharing. It is netted out as net income of the fund. Both KRS and KTRS are not reporting the fund of funds. That would be an additional level of disclosure required in the Senate proposal. JFRS has a single asset manager who manages public equities and public fixed income and does not have any partnership level agreements. JFRS invoices only management fees. GASB language has left it up to the plans whether or not to break out incentive related fees. Most plans are reporting all management level fees. A small minority of plans, which appears to be growing, is reporting private equity and alternative type related fees as expenses—for example, Missouri and South Carolina, which is on the forefront. Both the Senate and House proposals agreed on the need to start reporting returns net of fees.

Information on net versus gross reporting in 44 states reveals that the majority, or 57 percent, are reporting net of fee returns. States are trending toward a net of fee reporting cycle. The most recent financial statements of the 50 states indicates that 19, or about 38 percent, are reporting manager level fees. Reporting of manager level data may differ from state to state. One may report manager level fees but not include alternative managers or other type fees.

With respect to investment contract disclosure, SB 2 GA/HB 449 SCS would have required public disclosure of all contracts, except those which, if disclosed, would negatively impact ability to competitively invest in real estate or other asset classes. All contracts, regardless of exemption would be subject to review by the trustees, state auditor, and the legislative Government Contract Review Committee. The House proposal did not require public disclosure of contracts. All contracts, regardless of exemption, would be subject to review by the board, state auditor, governor, or members of the General Assembly, provided the individual signs a confidentiality agreement. Investment manager agreements (IMAs) are not generally public. Fee information is negotiated and a "most favored nation" clause may apply. None of Kentucky's state plans now provide public disclosure of IMAs.

Mr. Cracraft said he has not been able to find state postings of IMAs online. Several states have transparency portals that provide information on service contracts, whether with a consultant or an investment data provider. Information is not generally available with respect to general partners or investment manager contracts. The concern is that if a contract were to be made available and everyone knows what is being paid for a product, it could trigger a "most favored nation" clause. Asset managers are more concerned about this because not only will competitors know what they are offering but, more importantly, consultants will know. In addition, many IMAs reveal portfolio guidelines, and this is a manager concern. Ms. Hans noted that the IMAs being discussed are specifically exempted from KRS's written procurement policy.

Ms. Hans reviewed board composition of KRS, KTRS and JFRS. Under SB 2 the governor's appointees would become subject to Senate confirmation, and it would narrow the definition of investment experience. There were no proposed changes to the JFRS board. With respect to the KTRS board, SB 2 would have added additional gubernatorial appointees, and two appointees would be required to meet a revised "investment experience" definition. A previous staff study of 25 similar integrated organizations found that they generally had boards that seated from 7-20 members, with a combination of elected and appointed members; 14 states required some investment experience.

Senator Bowen said it is a nonpartisan goal of the General Assembly to position the retirement systems to meet obligations to state employees and retired teachers. From his perspective, transparency would be the natural first step. KERS and KTRS have had a fair amount of exposure in hedge funds and alternative investments. Those investments have the highest fee structure, and it is difficult to determine the actual cost of the fees. KRS and KTRS have not met their benchmarks in the last several years, in spite of an extended bull market period. Their investments have failed to exceed nationwide standards, whereas JFRS has had a positive return on investment.

Senator Bowen said that at the most recent meeting of the Public Pension Oversight Board, when he asked presenters representing JFRS whether they would object to being subject to the MPC, they said they would not. He said SB 2 is an attempt to salvage the systems and put them on the road to recovery. He is open to any compromise or conversation that will help advance what he believes are important components of SB 2. He added that the original version of SB 2 included a number of compromises.

Senator McDaniel contended that requirements for full disclosure of fees does not negatively affect funding status. He asked about investment fees charged to KERS and KTRS last fiscal year, and Mr. Cracraft said it totaled $118 million for the pension and insurance funds combined. There was negative impact on investment income, but there was some positive income for servicing cash flow. Senator McDaniel said that with a 6.75 percent assumed rate of return, a certain amount of growth on assets would have been expected, but the systems experienced a decline. The point, he said, is that the General Assembly for two years, through its appropriations, did its job exactly as anticipated, but failure continued at the system level.

When Representative Bratcher inquired about Tennessee's retirement system, Mr. Cracraft said Tennessee has a less complicated portfolio but does have alternative assets. That state would probably be considered "middle of the road" with respect to investing in traditional assets like public equity and fixed income, but it also has a small allocation in private equity. Senator Bowen said that Tennessee's pension system, which was discussed during the recent Southern Legislative Conference, is flush, with relatively little or no debt, and its rainy day trust fund is in the hundreds of millions.

Senator Bowen said that a quick calculation at the recent Public Pension Oversight Board meeting indicated that if the KTRS system used the same investment model and realized the same investment return as the judicial system, the fund would have realized income between $600 and $700 million last year. He said the General Assembly is responsible for making the proper appropriations and must continue to do so. However, the question needs to be raised whether KRS and KTRS are using suitable investment models.

When Representative Kay asked how the fees compare in size with other public plans, Mr. Cracraft said that KRS would be slightly above the median and that KTRS would probably range in the bottom 25 percent. Representative Kay, noting that JFRS is much better funded than KERS, said he believes it is worthwhile to consider combining the two plans as a show of solidarity—an idea he has proposed in the past. State employees would then know that when legislators are making decisions about their pensions they are not making separate decisions about the pensions of legislators and judges. He told Senator Bowen that he appreciates his efforts for transparency and accountability and that he, too, feels the time has come to take a closer look at the fees being charged by private equity firms and hedge funds.

Representative Montell said that Representative Kay's idea of combining the systems is worth considering. He asked whether the retirement system boards and those working inside the systems are fully aware of the fee structure, and Mr. Cracraft said they would not necessarily know the exact dollar amounts or be receiving periodic reports on the fees but would have access to the information. They should request the information, and he believes KRS is trying to start down that road. He pointed out that KRS has asked some of its recent general partners to adopt ILPA standards.

Representative Moffett spoke against investment contracts that include a "most favored nation" clause because they keep the truth out of the hands of people who make the decisions. He said Kentucky plans should move away from that type investment.

Senator Bowen thanked Ms. Hans and Mr. Cracraft and the members for attending to discuss these complex issues. With business concluded, the meeting was adjourned at 1:32 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Human Resources

Minutes of the 2nd Meeting of the 2016 Interim

August 25, 2016

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 25, 2016, at 11:00 AM, in Room 149 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, and Morgan McGarvey; Representatives George Brown Jr., Tom Burch, Donna Mayfield, David Watkins, Jim Wayne, and Addia Wuchner.

Guests: Stephen Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS); Dr. Allen J. Brenzel, MD, Clinical Director, Department for Behavioral Health, Developmental and Intellectual Disabilities, CHFS; Robert S. Silverthorn, Jr., Inspector General, CHFS; Dr. Molly Rutherford, MD, President, Kentucky Society of Addiction Medicine; Dr. Robert Couch, MD, Emergency Room Physician, Louisville, Ky; Dr. Robert Goforth, Pharm. D., R.Ph., Independent Pharmacist, Clay, Jackson, and McCreary Counties; Jill Lee, R. Ph., Pharmacist Consultant, Drug Enforcement and Professional Practices, Office of the Inspector General; Joseph Michael Cox, LPCC, President, Isaiah House/Patricia's Place; Brad Garrett, Recovered Addict; Melodie Schrader, Executive Director, Kentucky Association of Health Plans; Theresa Wilp, APRN, Bluegrass Family Care Center; and Scott Hesseltine, MA, MBA, LADC, Vice President of Addiction Services, Seven Counties Services.

LRC Staff: Miriam Fordham, Jonathan Eakin, and Benjamin Thompson.

Approval of Minutes

Representative Brown made a motion, seconded by Senator Gibson, to approve the minutes of the August 1, 2016 meeting. The motion carried by voice vote.

Overview of Medicaid Costs and Coverage of Medication-Assisted Treatments for Substance Use Disorders

Commissioner Miller, Dr. Brenzel, and Inspector General Silverthorn provided a brief presentation on substance use disorders in Kentucky and the Medicaid costs and coverage associated.

In response to a question from Chair Alvarado, Dr. Brenzel said diversion, or the illegal use of prescription drugs, is an issue about which CHFS is aware concerned.

In response to a question from Senator Gibson, Commissioner Miller stated that the dollar cost to Medicaid for medication-assisted treatment prescriptions had risen from $2 million per month in January 2014 to $5 million per month as of June 2016. Dr. Brenzel said much of the increase in cost occurred with the expansion of Medicaid.

In response to a question from Representative Wuchner, Commissioner Miller confirmed that there are 470 licensed addiction treatment prescribers in Kentucky and that 14 of them have reached their 100 patient maximum capacity.

In response to a question from Representative Brown, Commissioner Miller confirmed that Medicaid expansion has allowed more individuals to seek treatment for their substance use disorders.

In response to questions from Representative Wayne, Dr. Brenzel said many of the physicians with a license to prescribe medication-assisted treatments are in private practice. Dr. Brenzel stated that medication alone is not considered medication-assisted treatment. It would be inappropriate to prescribe medication without additional treatment methods, such as therapy. In some cases, patients get medication without additional treatment, but there isn't currently enough data to stop those instances. A prescriber does not have to be a board certified addictionologist but must have additional training before applying to the DEA for a license to prescribe medication for substance use disorders.

In response to a question from Representative Jenkins, Dr. Brenzel stated that CHFS is attempting to use its data to determine outlier prescribers.

In response to a question from Chair Alvarado, Dr. Brenzel confirmed the 100 prescription limit for prescribers is a federal policy.

Medication-Assisted Treatments for Substance Use Disorders - Physicians' Perspective

Dr. Rutherford presented on effective ways to treat substance use disorders and on the variety of situations seen by physicians working in the field.

In response to questions from Chair Alvarado, Dr. Rutherford stated that physicians have ways to prevent diversion. Dr. Rutherford said that she discontinues treatment if a patient stops taking medications as prescribed. She weens patient dosages down on Suboxone and eventually transitions to Vivitrol.

Tamper Resistant Drugs

Representative Wuchner and Dr. Couch provided a presentation on the development and benefits of tamper resistant drugs.

Medication-Assisted Treatments for Substance Use Disorders - Pharmacists' Perspective

Dr. Goforth, Ms. Lee, Mr. Cox, and Mr. Garrett testified on the ways that prescriptions used to treat opioid addiction, such as Suboxone, are diverted to the streets.

In response to a question from Chair Alvarado, Dr. Goforth said that his pharmacy reports every physician that it suspects of providing improper prescriptions.

Medication-Assisted Treatments for Substance Use Disorders - Medicaid Managed Care Organizations

Ms. Schrader provided a Medicaid Managed Care Organization perspective on coverage and costs for medication-assisted treatments for substance use disorders.

Use of Vivitrol in Treatment for Opioid Addiction

Ms. Wilp provided testimony on the benefits of using Vivitrol, rather than Suboxone or a similar medication, to treat substance use disorders.

In response to a question from Chair Alvarado, Ms. Wilp stated that it is very difficult to get Vivitrol preapproved by insurance companies.

Medication-Assisted Treatments in Kentucky Drug Treatment Clinics

Mr. Hesseltine presented an overview of how Seven Counties Services utilizes medication-assisted treatments in dealing with opioid addiction.

In response to a question from Representative Jenkins, Mr. Hesseltine said Kentucky does not have enough substance abuse counselors to meet the demand for treatment.

There being no further business before the subcommittee, the meeting was adjourned at 1:31 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education

Minutes of the 2nd Meeting of the 2016 Interim

August 25, 2016

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 25, 2016, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Arnold Simpson, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, and Johnny Ray Turner; Representatives Larry Clark, Cluster Howard, and Kenny Imes.

Guests: Andy Hightower, Senior Policy Advisor, Education and Workforce Development Cabinet.

LRC Staff: Jennifer Rowe, Jennifer Krieger, James Bondurant, and Amie Elam.

Education and Workforce Development Cabinet

Senior Policy Advisor Andy Hightower, Education and Workforce Development Cabinet, testified about the $100 million workforce bond and the Work Ready Skills Initiative application process, including a timeline and criteria. Among the handouts was a map of Work Ready Skills Initiative pre-applications by regions.

In response to a question from Senator West, Mr. Hightower said the responses to the pre-applications and invitations should start going out in early September. Mr. Hightower said that the cabinet has received a great variety of applications, including healthcare, transportation, IT, electrical, and plumbing.

In response to a question from Representative Flood, Mr. Hightower stated the Governor's appointees will be named August 25, 2016. Mr. Hightower added that projects will be distributed across the state.

In response to a question from Senator McDaniel, Mr. Hightower said that funding could be available in January and that bonds will be issued on an as needed basis.

In response to a question from Representative Clark, Mr. Hightower indicated that trade unions had filed pre-applications that contained the necessary criteria.

In response to a question from Representative Howard, Mr. Hightower said that there was an advisory committee to ensure geographical diversity. Kentucky Economic Development Finance Authority (KEDFA) staff will help determine sustainability.

In response to a question from Representative Donohue, Mr. Hightower said that there is no guaranteed percentage of funds for each area, but there is a commitment to award projects of all sizes in every area of the state.

In response to a question from Senator Neal, Mr. Hightower said that there is no specific secondary institution representation on the advisory committee. Mr. Hightower said that the Work Ready Advisory Committee membership will have appointees from the Governor and one appointee each from the President of the Senate and the Speaker of the House.

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education
Minutes of the 2nd Meeting of the 2016 Interim

August 25, 2016

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 25, 2016, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Kelly Flood, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, and Johnny Ray Turner; Representatives Jeffery Donohue, and Rick G. Nelson.

Guests: Andy Hightower, Senior Policy Advisor, Education and Workforce Development Cabinet.

LRC Staff: Jennifer Rowe, Jennifer Krieger, James Bondurant, and Amie Elam.

Education and Workforce Development Cabinet

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 3rd Meeting of the 2016 Interim

August 25, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 25, 2016, at 2:00 PM, in Room 154 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, Denise Harper Angel, Stan Humphries, Brandon Smith, Stephen West, and Max Wise; Representatives Linda Belcher, John Carney, Larry Clark, Mike Denham, Jeffery Donohue, Myron Dossett, Brad Montell, Marie Rader, Sal Santoro, Rita Smart, Jim Stewart III, Wilson Stone, Tommy Turner, Addia Wuchner, and Jill York.

Guests: Rob Richards, Deputy Commissioner, Department of Parks, Bill Novak, Director, Division of Facilities Management; David Eager, Interim Executive Director, Kentucky Retirement Systems, David Peden, Chief Investment Officer, Kentucky Retirement Systems.

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

Approval of the Minutes

Senator Alvarado made a motion, seconded by Representative Donohue, to approve the minutes of the August 1, 2016 meeting. The motion carried by voice vote.

Testimony Regarding Kentucky Retirement Systems Investment Returns

David Peden, Chief Information Office and David Eagen, Interim Executive Director of the Kentucky Retirement Systems, gave a very detailed overview of Kentucky's investment performance.

Mr. Peden explained that the investment performance is a product of asset allocation and manager selection. The board's policies establish asset allocation targets based on asset-liability modeling studies that are conducted by independent experts at least once every five years. The objective of the asset allocation policies is to produce returns that meet certain benchmarks or goals, both on a short-term and long-term basis. To meet its objectives, the investment program employs diversification and rebalancing strategies among and within the asset classes.

Mr. Peden presented several very detailed graphs and projection worksheets explaining the state's investment portfolio for the pension and insurance plans. The graphs showed all investments and the returns. There were several more graphs that showed performance drivers for investments, investment returns, risk and return analyses for both five and ten years, and a review of cash flow for the system.

Discussion on State Park Renovations

Rob Richards, Deputy Commissioner and Bill Novak, Director, Division of Facilities Management, discussed the $18 million state investment that was given to the state parks.

Mr. Richards explained that the $18 million allocation was the largest investment that has been given to state parks in over 10 years. These funds are being used to improve exteriors this year. In 2015, a $5.8 million investment was used for updating the interior of some of the lodges.

He stated that, over the last year, several parks have reflected the effects of deferred maintenance. The funds allocated have already been used for aesthetic and safety upgrades. He gave an overview of the scheduled parks' upgrades, which include extensive exterior repairs over the next 18 months.

Mr. Richards explained that, as a result of the upgrades to the state parks, customers can book reservations online through different travel sites. Internet and Wi-Fi access is improving across the facilities. There are also alcohol sales within 11 of the state parks. Finally, state parks plan to take advantage of the opportunity provided by the recently enacted public private partnership (P-3) legislation.

With no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 2nd Meeting of the 2016 Interim

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, August 23, 2016, 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, Chris Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, Albert Robinson, John Schickel, and Dan "Malano" Seum; Representatives Ron Crimm, Mike Denham, Joseph M. Fischer, Chris Harris, Dennis Horlander, James Kay, Dennis Keene, Thomas Kerr, Adam Koenig, David Meade, Michael Meredith, Russ A. Meyer, David Osborne, Sannie Overly, Steve Riggs, Bart Rowland, Jonathan Shell, Wilson Stone, and James Tipton.

Guests: Mark Treesh, Executive Director, Insurance Institute of Kentucky; Carl Breeding, Property Casualty Insurers Association of America; and Dr. Amy Carrico.

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

Minutes

A motion by Representative Crimm and second by Senator Parrett to approve the minutes of the June 28, 2016, meeting carried by voice vote.

Mandatory Minimum Coverage for Automobile Insurance Policies

Carl Breeding, representative of Property Casualty Insurers Association of America, explained that the minimum limit on private passenger auto insurance property damage is sufficient to cover the majority of claims. During the last four quarters, the average property damage liability claim in Kentucky was $3,467, which is far below the current $10,000 limit. Mr. Breeding reviewed other states' coverage limit requirements that range from $5,000 to $25,000. Even with substantial penalties in place, Kentucky has a relatively high uninsured motorist rate. Raising mandatory minimum coverage increases insurance costs, which will impact those most often struggling to afford basic coverage and ultimately causing the number of uninsured motorists to rise.

Mark Treesh, Executive Director, Insurance Institute of Kentucky, reviewed an Insurance Information Institute report on compulsory auto insurance requirements. Mr. Treesh explained that raising minimum coverage amounts results in higher premiums which may drop financially struggling motorists out of the market. A policy decision must be made based on affordability and balancing underinsured motorists versus uninsured motorists.

Responding to Representative Meredith's question, Mr. Treesh said the financial impact on drivers of raising the minimum coverage requirement to $25,000 would vary based on factors such as driver accident rates. Mr. Breeding offered to provide more detailed financial impact information following the meeting. Representative Meredith said underinsured motorists become a bigger problem as vehicle costs increase. He said the cost is being forced onto other parts of the market.

Senator Schickel said, based on the concern of forcing motorists out of the market, he has changed his mind on the issue. However, he is concerned about low coverage rates and catastrophic bodily injuries.

In response to Representative Harris' question, Mr. Treesh said there is a significant problem with Personal Injury Protection (PIP) fraud. He said that, if the PIP amount is increased, attention should be given to reducing fraud. Representative Harris asked that the average amount of PIP claims be given to the committee. He said the cost of medical treatment has increased dramatically while PIP coverage remains the same.

Representative Stone said he was undecided on the issue, but he is concerned about pricing financially struggling motorists out of the market.

Chairman Greer said insurance industry representatives do not want to appear self-serving and therefore have chosen not to speak on the issue. The most needed change to minimum coverage limits is in property damage. A not-at-fault driver hit by an underinsured motorist with insufficient coverage must submit a claim on his or her insurance and pay a deductible.

Insurable Interest in Life Insurance

Dr. Amy Carrico testified on the need for amending current statutes to require insurable interests at all times during the period of an insurable interest life insurance policy for the policy to be enforceable. A general dentist from Owensboro, she explained her former arrangement with another dentist to share business expenses. While their two businesses were separate, they jointly owned dental equipment and shared overhead costs, including an office space lease. She and her partner chose to mutually insure each other through term policies to cover insurable interest on the assets. This coverage would, should a partner die, allow the remaining partner to purchase the deceased partner's interest in equipment and pay off the remaining debt. Approximately nine years after starting her business, Dr. Carrico was diagnosed with cancer. Throughout her illness, she maintained her financial agreement and had hoped to return to her practice once she regained her health. Another dentist treated her patients during her nine month medical leave. Dr. Carrico explained that the partnership became so toxic, she decided to end the business agreement. While she had no trouble negotiating a fair price for her share of the business assets, her former partner refused to exchange life insurance policies even though they no longer had an insurable interest. After months of negotiations, a payout was agreed upon that would expire in ten years based on Dr. Carrico's survival. Kentucky law contains a loophole requiring an insurable interest be present only at the time of purchase of the policy and asked that the loophole be addressed.

Referring to the proposed language Dr. Carrico provided, Representative Kerr explained that another section of the statute may be more appropriate for language that would terminate insurance when there is no longer an insurable interest.

Responding to Representative Fisher's questions, Dr. Carrico said she and her partner had a legal agreement providing first right of refusal if either person got sick or died. She had disability insurance. She said their buy/sell agreement did not address distribution of insurance policies at the time the partnership was dissolved. Representative Fisher said a majority of states, like Kentucky, only require an insurable interest at the inception of the policy.

Representative Harris said care should be taken if legislative changes are made so as not to allow insurance companies to continue collecting premiums long term only to determine there was no insurable interest and refuse to pay out the policy.

Representative Riggs suggested a better buy/sell or partnership agreement to avoid this type situation. He said the proposed legislation may affect policies that are gifted to others, such as upon retirement. Dr. Carrico said her attorney failed to address the issue when drafting the agreement.

Representative Crimm said it is difficult to write legislation that would protect a person in this situation and not affect other types of insureds.

Representative Meade said that, as a businessman, he would not want a former partner to continue a life insurance policy on him with no insurable interest and that the issue could be easily addressed legislatively.

Dr. Carrico said she was present to represent other Kentuckians as any changes made would probably not improve her situation.

Chairman Greer commended Representative Riggs for being appointed President of the National Conference of Insurance Legislators.

There being no further business, the meeting was adjourned at 11:20 AM.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 4th Meeting of the 2016 Interim

September 1, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, September 1, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Fitz Steele, Co-Chair; Senators C.B. Embry Jr., Chris Girdler, Ernie Harris, Paul Hornback, John Schickel, Brandon Smith, and Johnny Ray Turner; Representatives Hubert Collins, Tim Couch, Jim DuPlessis, Daniel Elliott, Reginald Meeks, Rick G. Nelson, Lewis Nicholls, Marie Rader, John Short, Kevin Sinnette, Jim Stewart III, and Chuck Tackett.

Guests: Jeff Whitehead, Executive Director, Eastern Kentucky Concentrated Employment Program; Owen Grise, Deputy Director, Eastern Kentucky Concentrated Employment Program; and Laura Cole, Kentucky Oil & Gas Association.

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

Upon motion made by Representative Collins and second by Senator Girdler, the August 4, 2016 minutes were approved by voice vote and without objection.

Eastern Kentucky Concentrated Employment Program Presentation

Jeff Whitehead, Executive Director, and Owen Grise, Deputy Director, of the Eastern Kentucky Concentrated Employment Program (EKCEP), testified on the workforce development and mine worker retraining programs administered by EKCEP. Headquartered in Hazard, Kentucky, EKCEP operates the Kentucky Career Center JobSight network of workforce centers. EKCEP provides access to more than a dozen state and federal programs that offer employment and training assistance for nearly 500,000 people in 23 mountain counties in eastern Kentucky.

EKCEP officials explained some of the training programs and workforce opportunities offered, such as electrical lineman and fiber optic training, telework training through Teleworks USA, and the Hiring Our Miners Everyday (H.O.M.E) programs. They also discussed the impending announcement of the results from the Eastern Kentucky Works Workforce Study, which will detail current workforce readiness in the region for various industries and occupations. Results from the study will be used to assist in strategic planning and help in recruiting new businesses and economic investment to the region.

Representative Steele and Senator Smith expressed regret for the sudden loss of Chris Engle and praised his work for EKCEP.

Representative Steele thanked the Kentucky Coal Association and David Moss for their partnership with EKCEP.

Responding to a comment from Representative Couch, EKCEP officials explained that lineman and railroad jobs are considered traveling jobs for people who live in all regions of the state. However, the training for these jobs is local for the people of eastern Kentucky.

Responding to a question from Senator Turner, EKCEP officials said that they would be happy to help any former land men referred to their program.

Representative DuPlessis thanked EKCEP officials for their presentation and commented on reforming education in order for young adults out of school to know how to do Computer Numerical Control (CNC) machining or Programmable Logic Controllers (PLC) coding.

Representative Meeks asked for a copy of the Eastern Kentucky Workforce Study to better understand the study's findings. Representative Meeks commented that the workforce circumstances for people in eastern Kentucky are similar to situations that occur in urban communities.

Responding to a comment from Representative Rader, EKCEP officials agreed that Teleworks USA is creating many opportunities for people in eastern Kentucky. EKCEP officials explained that instilling hope and helping people re-envision themselves are important aspects of their work.

There being no further business, the meeting was adjourned. The documents distributed during the meeting are available in the LRC Library.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 4th Meeting of the 2016 Interim

September 6, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 6, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes of the Committee's August 2, 2016 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Joe Bowen, C.B. Embry Jr., Jimmy Higdon, Gerald A. Neal, Dorsey Ridley, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Tim Couch, Donna Mayfield, Tom McKee, Russ A. Meyer, Charles Miller, Jerry T. Miller, Terry Mills, Rick G. Nelson, Marie Rader, Sal Santoro, John Short, Arnold Simpson, Fitz Steele, Jim Stewart III, Tommy Turner, and Addia Wuchner.

Guests: Ron Rigney, Director, Division of Program Management, Kentucky Transportation Cabinet; Robin Brewer, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet; and John-Mark Hack, Commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet.

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

Road Fund Update and Report on Planned Federal Highway Funding

Director Rigney and Director Brewer gave an update on the Road Fund status and planned Federal Highway funding. The total official enacted revenue estimate for FY 2016 was $1.558 billion ($870.5 million motor fuels tax, $445.5 million motor vehicle usage tax, and $242.4 million other revenues). Because 2015 HB 299 Assembly froze the motor fuels tax floor, a revised official revenue estimate was made resulting in a total revenue estimate of $1.445 billion. Of that $1,445.9 million, $742.9 million was motor fuels tax, $463.1 million was motor vehicle usage tax, and $239.9 consisted of other revenues. The estimated shortfall between the enacted revenue estimate and the revised revenue estimate was a difference of $112.5 million. Of that $112.5 million, motor fuels tax revenues were reduced by $127.6 million, motor vehicle usage tax increased by $17.6 million, and other revenues were reduced by $2.5 million.

Director Brewer compared the Road Fund revised official estimate of $1.445 billion total to that of the actual revenues. The actual total revenues were $1.482 billion of which motor fuels tax accounted for $750.0 million ($7.1 million over the revised estimate). The motor vehicle usage tax accounted for $484.4 million ($21.3 million over the revised estimate), and other revenues accounted for $248.1 million ($8.2 million over the revised estimate).

FY 2016 actual revenues were compared to FY 2015 actual revenues. In FY 2016, the total revenues were $1.482 billion, ($750 million in motor fuels tax, $484.4 million in motor vehicle usage tax, and $248.1 in other revenues). In FY 2015, the total revenues were $1.526 billion,

($850.3 million in motor fuels tax, $432.8 in motor vehicle usage tax, and $243.6 million in other revenues). The net difference is a shortfall of $44.2 million from FY 2015 to FY 2016, a -2.9 percent change.

Director Brewer compared the FY 2017 official enacted revenue estimates with the FY 2016 actual revenues. The FY 2017 official enacted revenue estimated that the motor fuels tax would equate to approximately $747.3 million, the motor vehicle usage tax would equate to approximately $469.5 million, and other revenues would equate to approximately $240.1 million, totaling a revenue estimate of $1.456 billion. When FY 2017 estimates are compared to the FY 2016 numbers of $750.0 million in motor fuels tax, $484.4 million in motor vehicle usage tax, and $248.1 in other revenues, totaling a total actual revenue of $1,482 billion, the result is a difference of a shortfall of $25.6 million total (-1.7 percent change). Of that shortfall, - $2.7 million is derived from motor fuels tax, -$14.9 million is derived from motor vehicle usage tax, and -$8.0 million is from other revenues.

Director Brewer presented a chart that explains the Road Fund cash balance history and projections from January 2013 to January 2018. Through the Transportation Cabinet's continued efforts to manage cash, the cash balance has improved from what was communicated to the Committee several months ago due to increased Road Fund revenue (36.6 million for FY 2016 that was not anticipated). The cabinet also took measures to reduce maintenance spending by approximately $30 million for FY 2016. The "Pause-50" plan includes placing approximately $145 million in authorized state funded projects on hold, which was held to manage the cash situation. The chart shown assumes that $50 million in state funded projects will be placed on the books in July, 2017.

Director Rigney explained the Federal-Aid Highway Program Funding. With the combined efforts of Congress and the current Administration, the passage of Fixing America's Surface Transportation (FAST) Act has set the stage for a successful and strong federal highway funding program. The FAST Act, the first transportation act in over 10 years that is a long-term bill, gives the states the ability to plan ahead. With the approval of a new highway plan, one of the first things the cabinet must do is going through the process and submittal of a new Statewide Transportation Improvement Program (STIP) to FHWA. The STIP document is used to improve federally funded projects in order to be approved for federal program dollars. The cabinet has gone through the 30 day public review process, and is in the final stages of completing the new STIP document to be submitted to FHWA for the final review and signatures. The cabinet is making sure it fully utilizes all federal fund dollars. The current STIP is still available for use for the next two years. The FFY 2016 Federal-aid Funding Obligation Authority was funded at $634 million. Of that $634 million, $604 million has currently been obligated with a remaining balance of $30 million to be obligated before October 1, 2016.

The cabinet anticipates receiving $688 million in FFY 2017, $702.7 million in FFY 2018, $718.6 million in FFY 2019, $607.5 million in FY 2020 (after rescissions), $735.9 million in FFY 2021, $735.9 million in FFY 2022 and the total Federal Funds for FFY 2016-2022 are $4.188 billion. A chart was provided that showing the anticipated federal funding for the highway plan, including highway plan funding and GARVEE Bond Debt Service funding. GARVEE Bond Debt service funding was set aside due to the requirement to pay those debt service payments each year. Director Rigney stated in FFY 2017, $96.3 million would be needed to go towards GARVEE Bond payments, $97.0 million in FFY 2018, $97.0 million in FFY 2019, $81.0 million in FFY 2020 (after recessions), $81.0 million in FFY 2021, and $81.0 million in FFY 2022 would all be needed to go towards the repayment of GARVEE Bonds and Debt Service funding.

Director Rigney stated the remaining core programs involved with federal funding include the National Highway Performance Program, the Surface Transportation Program, the Highway Safety Improvement Program, and other issues such as transportation enhancement and congestion mitigation. The chart provided broke figures down for each of those programs from FFY 2017- FFY 2022.

In response to questions asked by Co-Chair Collins, Director Brewer stated the difference between the 26 cent floor for the Motor Fuels Tax and the 24.6 cents she mentioned is the 1.4 cents that is allocated to the Petroleum Storage Tank Environmental Assurance Fund, which does not go to the Road Fund. She will follow up with the committee after the meeting to provide information concerning the dates of the last mowing cycles for the season.

In response to a question asked by Senator Embry, Director Rigney stated that some "Pause-50" projects will resume in the summer of 2017 (FFY 2018), while others may be started sooner. The director stated the cabinet is in the process of putting together a prioritization model to prioritize projects.

In response to a question asked by Representative McKee, Director Rigney stated there would not be a way to allocate the use of HSIP funds to repair, rebuild or construct rest areas for the purposes of truck parking unless there is an accumulated number of data driven accidents at a certain spot. However, the use of other federal dollars could be used to rework rest areas, and that has been done in the past. Representative McKee asked that the cabinet look into opening one of the two currently closed rest areas in order to help reduce the truck parking issues. Director Rigney stated the Hart County rest area is being reconstructed for reopening.

In response to questions asked by Chairman Harris, Director Brewer stated that some of the maintenance activities that have been slowed or suspended due to the $30 million in maintenance spending cuts include striping activities and mowing activities in some areas. Although spending was cut for maintenance activities, the maintenance budget was still over budget by approximately $30 million for the year. Toll credits have been able to be used as the state required match on federal programs. The credits are not spendable dollars but are credits that have been earned through the use of state dollars on the federal aid projects that would have been eligible for federal dollars, making the entire cost 100 percent federal. It is anticipated that the toll credits are set to run out in 2020. Approximately $30 million to $40 million will be needed for state match in 2020, and after that, roughly $100 million a year in matching funds will be needed for the federal program. Toll credits are being held back to pay off the GARVEE Bonds through 2027.

Activities and Operations of the Department of Vehicle Regulation

Commissioner Hack testified about activities and operations of the Department of Vehicle Regulation. The department ensures public safety through motor vehicle licensing, regulation, and driver licensing. It is involved in Road Fund revenue collection, supporting free flow of commerce and economic development through business services and regulation, and customer service in all of those areas. The department has 220 full-time state positions (including 26 vacancies) and 56 full-time temporary positions.

The Commissioner's Office consists of Commissioner Hack, Deputy Commissioner Rick Taylor, and 16 full-time state employees with one vacancy. There is an Administrative Support Branch, a Medical Review Board, and the Motor Vehicle Commission under the umbrella of the Commissioner's office. The Motor Vehicle Commission is headed by Carlos Cassady, Executive Director, and has 10 full-time positions. The Division of Driver Licensing is headed by Director Matt Cole and has 82 full time state employee positions, 14 vacancies, and three full-time temporary positions. The Division of Motor Vehicle Licensing is headed by Director Paul Mauer and has 51 full-time state employee positions, four vacancies, and 24 full-time temporary positions. The Division of Motor Carriers is headed by Director Brian Beaven, and has 54 full-time state employee positions, seven vacancies, and five full-time temporary positions. The Division of Customer Service is headed by Director Marty Greer and has seven full-time state employee positions and 24 full-time temporary positions.

The Division of Motor Carriers collected over $270 million of revenue in FY 2016. The division consists of three branches: Qualifications and Permits, Licensing and Registration, and Tax and Financial Processing. They serve approximately 120,000 customers such as trucking firms, independent truckers, U-Drive-It, solid waste companies, taxi/limo/TNC companies, buses, and household good companies on a daily basis. Approximately 95,000 over-weight and over-dimensional permits have been issued for FY 2016. Partnering agencies consist of the Federal Motor Carrier Safety Administration, the Federal Highway Administration, Kentucky State Police (KSP), Commercial Vehicle Enforcement (CVE), and IFTA, Inc. and IRP, Inc., which are tax collection entities.

Recent progress in the Division of Motor Carriers has consisted of the use of KATS real-time virtual monitoring, and KYU online tax payment system, which is a national award winning program. Some challenges that the division has faced are the historically low number of KSP CVE Officers, which affects weigh station hours of operation, poses public safety risks, and trucking industry concerns, and a decrease in safe truck parking solutions. The division is looking into implementing some new initiatives such as the Soldiers to Semi's program, which would be a one stop shop that provides CDL's on site to soon to be retired military personnel. Another new initiative is to transform the Motor Carrier Committee to a Motor Carrier Commission. Commissioner Hack hopes for training for KSP CVE Officers on use of new technologies. The training for public customers for online service utilization and continuous improvement to online resources is another new initiative the division is aiming to achieve.

The Division of Driver Licensing has three branches. The Hearings/Fraud Verification Branch consists of 12 field offices that handled 132,158 calls in 2015 and recovered $679,000 in license reinstatement fees in 2015. It also has the Court Records/CDL Management and the Driver Education/Records Branches. The Division of Driver Licensing serves 3,598,073 license holders, 135,814 CDL holders (240,000 Medical certification actions were handled last year), 251,586 Permit holders, and over 100,000 students served in 2015. The division's partnering agencies are Circuit Court Clerks, KSP Driver Testing Branch, and the law enforcement community.

Recent progress in the Division of Driver Licensing has consisted of driver license system improvements and process efficiencies, the use of CDL online portals for document submission, and internal cross-training within sections. The division faces challenges such as the loss of federally-funded CDL employees (57 percent of current staff), a mainframe system replacement, the Center for Advanced Traffic Solutions (CATS) program, and the ignition interlock program (1,758 cases in 2016).

The division has plans for new initiatives such as central issuance of licenses, a longer-term license, new CDL document processing software, new customer service training curriculum, creative ways for employee recognition, new vendor rollout for the online GDL/Online Traffic School programs in October 2016, and a progression toward exploring digital driver's licenses.

The Division of Motor Vehicle Licensing has two branches: Registrations, which processes approximately 3,019,052 vehicle registrations annually, and Title Processing, which processes about 130,000 titles per month using 21 examiners. The division serves personal vehicle owners, commercial fleet vehicle owners, and new, used, and rebuilt vehicle dealers. Partnering agencies include County Clerks, KSP, Fish and Wildlife, county sheriffs, law enforcement community, the Department of Revenue, and Kentucky Correctional Industries.

Recent progress in the Division of Motor Vehicle Licensing involves print-on-demand decal/document scanning, a storage and transmission system, and expanded online registration renewal. The division's challenges include the use of the AVIS mainframe system and problems with the special license plate program. New initiatives include streamlining fleet vehicle registration and print-on-demand license plate production.

The Division of Customer Service has 31 employees and consists of a call center and a website. Its customers include all Division of Vehicle Regulation customers. Approximately 425,479 customer support incidents were documented in 2015. There have been 290,777 incidents in 2016. The division's partnering agencies include County Attorneys, County Clerks, Circuit Court Clerks, the law enforcement community, the Department of Revenue, and various federal agencies.

Recent progress in the Division of Customer Service has been the ability for increased call volume handling by customer service professionals, improved first call resolutions, and upgraded software systems. Its challenges include high turnover of full-time temporary employees, which results in constant training costs, and reliance on third-party technology resources. The division's new initiatives include use of the Drive.KY.Gov

website and new online services, including live chat, social media, and new payment options. It is also seeking continuous software systems improvement.

The Commissioner's Office for the Department of Vehicle Regulation consists of an Administrative Support Branch, the Medical Review Board (manages 6,000 cases per year), and the Motor Vehicle Commission, which license and regulates 2,700 vehicle dealers. New initiatives include completing the first comprehensive customer satisfaction survey, a commercial vehicle industry support initiative, changing the Motor Carrier Advisory Committee to the Motor Carrier Commission which would handle CDL processing, truck parking, CVE enforcement and revenue collection, and the Soldiers to Semis program. Two additional initiatives include the full scale launch of Drive.KY.Gov, and a paper reduction initiative.

Senator Bowen stressed the importance of enforcing the prohibition of texting while driving and reminded the committee and department to continue to make that a priority.

Senator Higdon proposed having area technical schools offer students the ability to obtain CDLs. He questioned if the vacancies in the department are due to a 37.5 work week schedule as opposed to a 40 hour work week. Commissioner Hack stated the 40 hour work week is being looked into as a possible solution.

In response to a question asked by Co-Chair Collins, Commissioner Hack stated the expense for the technical setup to roll out a new special license plate is approximately $35,000. The Road Fund loses approximately $12,500 from each newly rolled out specialty plate. A new print-on-demand license may solve problems in this area.

Representative Wuchner thanked the Medical Review Board for its difficult job and stated she appreciated the safety that the board enforces.

Representative McKee thanked Commissioner Hack for taking the lack of truck parking into consideration and looking into how to solve the issue.

In response to a question asked by Senator Harris, Commissioner Hack stated that a decision on REAL ID extension will be given at the beginning of October.

With no further business, Chairman Harris adjourned the committee at 2:10 P.M.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 4th Meeting of the 2016 Interim

September 12, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Education was held on Monday, September 12, 2016, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Julie Raque Adams, Jared Carpenter, Danny Carroll, Jimmy Higdon, Alice Forgy Kerr, Gerald A. Neal, Johnny Ray Turner, Stephen West, and Max Wise; Representatives Linda Belcher, George Brown Jr., John Carney, Leslie Combs, Jeffery Donohue, Kelly Flood, David Hale, Cluster Howard, James Kay, Brian Linder, Mary Lou Marzian, Reginald Meeks, Charles Miller, Marie Rader, Tom Riner, Sal Santoro, Rita Smart, Jim Stewart III, Wilson Stone, Gerald Watkins, and Addia Wuchner.

Legislative Guests: US Senator Lamar Alexander, Tennessee; Senate President Robert Stivers.

Guests: Wayne Young, KASA; Erin Klarer, KHEAA; Annissa Franklin, Urban League; Todd Allen, KDE; Jim Evans, Superintendent Lee County Schools; Bob Rowland, KASA; Kevin Sorice and Leib Lurie, Kids Read Now.

LRC Staff: Jo Carole Ellis, Janet Stevens, Joshua Collins, Yvette Perry, Avery Young, and Christal White.

Approval of Minutes

On a motion by Representative Stone and a second by Representative Donahue, minutes of the August 15, 2016, meeting were approved by voice vote.

Non-Traditional Instruction Program

David Cook, Director of the Division of Innovation and Partner Engagement, Office of Continuous Improvement and Support, Kentucky Department of Education (KDE), said the Non-Traditional Instruction (NTI) program was enacted by the Kentucky General Assembly in 2011 for school districts who miss a significant number of school days due to weather or other emergencies. The pilot provided districts an opportunity to conduct classes through NTI methods when schools were closed.

Mr. Cook said the five districts who applied for the original pilot for 2011-2012 were Leslie, Letcher, Owsley, Powell, and Wolfe. Letcher, Owsley, Powell and Wolfe each were subsequently approved for NTI days. During the 2012-2013 and 2013-2014 school years, only Owsley and Wolfe chose to continue in the program and requested NTI days. In 2015, Leslie reapplied and was accepted into the program. Districts must apply every year to be considered for the NTI program.

Mr. Cook said the pilot's eligibility requirements on the number of days missed limited the participating districts to eastern Kentucky. In 2014, the pilot program was amended with the enactment of HB 211, which allowed all 173 Kentucky school districts to apply for non-traditional student attendance days by lifting the requirement for districts to have missed more than 20 days per year for three years. All districts can now apply to use 10 days of NTI, although they are not required to use all of those days.

For the 2014-2015 school year, 15 districts applied to the Commissioner to participate in the program. Of the 15 applications, 13 were approved, and two were denied based on deficiencies in the applications. Of the two applications that were not approved, one district reapplied in 2014-2015 and was approved, and one district chose not to re-apply.

For the 2015-2016 school year, 44 districts were approved for the program from 52 submitted applications. This included the 13 districts from 2014-2015, plus 31 additional districts.

For the 2016-2017 school year, 72 applications were approved for the program from 77 submitted applications. This included the 44 districts from 2015-2016 and 28 additional districts. Mr. Cook said the program expansion alleviated an equity issue and has been beneficial. He said the participating districts provide evidence of student participation and learning to the Commissioner of Education. If approved, the district does not have to make up the approved days.

Mr. Cook said the NTI program application process begins in the spring of each year and covers 12 areas of emphasis: delivery of instruction, access to online resources, access to equitable materials, how the NTI program learning parallels to regular instructional days, individualized educational plans (IEP), program services plans, gifted student service plans, gathering information for evidence of learning, a professional learning plan, how certified and classified staff will report their time, and how facilities with reciprocal agreements affect the program.

Applications are scored against a four-point rubric to determine the applicants that will be recommended to the State Board of Education and the Commissioner for approval. As a requirement for NTI program recommendation, applicants must average a minimum score of proficiency of at least 3.0 on the 4.0 rubric scale on all questions. Applications not approved are returned to districts with feedback regarding deficiencies, recommendations for improvement, and encouragement to apply again in future years.

Mr. Cook said the NTI implementation process provides the districts flexibility as to how the program is used, with the option of running consecutive days or skipping days. Most districts use a blended model of instructional delivery that allow students to complete assignments online or as a paper assignment, based on their at-home internet connectivity.

During the monitoring process, each district provides written documentation, which includes lesson plans from all grade levels; samples of student work from elementary, middle, and high school; copies of teacher logs recording interaction with students; copies of teachers' reports regarding student participation; and completed assignments.

After submission of the written documentation, KDE conducts site visits, including interviews with administrators, teachers, parents, and students. The group is asked about the process and the values found in the program. Following site visits, a random review of the district's written documentation is conducted.

Mr. Cook said the academic benefits of the NTI program are continuity, reduction of learning loss, engaging student and teachers, and evidence of learning. The program's non-academic benefits include increasing communication between parents and teachers; interacting with community via social media; teaching time management, independence, and problem solving to children; providing an entry point into blended learning; and avoiding the make-up days at the end of the school year.

Three instruction methods are digital learning, blended learning, and project-based learning. Digital learning tools include providing Edmodo, Blackboard, and Google Classroom; posting tutorial videos and activities on the website; and enabling teachers to maintain a digital presence. Blended learning tools include documenting projects and activities and posting electronically, and flipping the classroom approach. Project-based learning entails cross-curricular teams building long-term projects, and students working on projects when not in school.

Mr. Cook said there are challenges for districts, including funding, curriculum and technology. Regarding funding, there is no monetary allowance for transportation or food reimbursement, and there is no average daily attendance (ADA) for comparison from previous years for NTI days. The curriculum challenges include compliance of IEP/504 and the process of reviewing and enrichment versus providing new content. Technology challenges include some households having multiple students but only one electronic device or households with no internet or device access.

Mr. Cook said the oversight challenges KDE faces are flexibility for implementation of the program and the inability to monitor in person. Although the monitoring can done electronically, most monitoring is done after the fact. He said specifically tying the program to achievement improvement has been a challenge and an outside evaluation by Regional Education Lab (REL) is doing a study of the program. KDE has found it difficult to determine what part of the result is due to achievement growth as a result of NTI program compared to traditional learning. Mr. Cook said REL believes some of the better ways to evaluate the program are quality of work produced and the way in which the program is implemented and evaluated locally.

Mr. Cook said the REL team will evaluate the following areas as it relates to the NTI program: when days are used by the districts, what takes place during the day, who participates, do districts believe KDE provides adequate support, and how the days impact student outcomes. The variation ranged from two districts that used zero days up to eight districts that used all 10 of their days.

Data indicates that, while the average rate of student participation in NTI based on completed assignments is 94 percent, the average teacher participation rate is 99 percent, based on logs, time on computer, and time on phone with students and parents. Multiple measures of evidence include review of learning outcomes, results, daily staff duties, and sample lesson plans.

Kenny Bell, Wolfe County Superintendent, said Wolfe County is one of the original NTI instruction pilot districts. He said his district has more school-age child poverty than the entire state, and due to more frequently missed days and the lack of internet or devices, the closing of schools in poverty stricken areas increases the gap. With an NTI achievement rate of 94 to 95 percent, Wolfe County is among the top 10 percent for improvement in Kentucky during the pilot program. With NTI, snowbound days keep students involved in learning activities and engaged in technology. Positive comments from teachers, parents, and students demonstrate that the program is working in Wolfe County.

Mike LaFavers, Boyle County Superintendent, said that in 2014-2015, which was his district's first year of NTI, five days of NTI were used, and three days were used last year. The powerful components Boyle County found regarding NTI are: no need to reduce school calendar days; provide incubators for ideas to see what digital learning looks like and push those ideas forward; deeper learning methods for engaging students in critical thinking activities; and student-centered, inquiry-based learning methods. The work completion rate of 98 percent during NTI exceeded the daily attendance rate of 95 percent.

In response to a question by Representative Flood, Mr. Cook said the application process has been modified. Representative Flood said that the challenge of funding for districts should fall back on the General Assembly.

In response to a question by Representative Graham, Mr. Cook said the school lunch program is FDA operated, and Owsley County was included as one of the original pilots because the need to provide meals as well as instruction on NTI days is critical.

In response to a question by Representative Graham, Mr. Cook said statewide connectivity to the internet is close to 80 percent, and high-speed internet access is available. The superintendents said the challenge is getting devices to the students. Representative Graham said it is important for parents to be well-versed about the program and understand the need for students to continue work assignments during snow or emergency days, and he is encouraged by the rate of success.

Representative Riner commended KDE for the success of NTI because it provides a policy for snowbound and illness emergencies and provides a back-up policy for major natural or man-made emergencies that may force district closure for longer periods of time.

In response to a question by Senator Carroll, Mr. Bell said technology in Wolfe County has expanded among teachers, parents, and students. To determine needs on NTI days, he instituted a mandate that each parent in the entire district be contacted. Mr. LaFavers said his district calls students and provides a learning management system called Converge, similar to Blackboard, but more K-12 friendly. The students access that site and communicate with teachers by text or email. Information provided through a survey indicated 90 percent of children have access to internet, where the information can be obtained. Students who lack internet access are offered a pre-planned paper packet of the lesson.

Instead of using the previous year's ADA figures as attendance data for NTI days, Representative Stone suggested that the participation rate could be used.

In response to a question from Representative Stone, Mr. Cook said contract staff compensation can be shifted from the school-year calendar to summer, and classified workers can earn professional development that makes up for some of the time.

In response to Representative Howard's question, Mr. Cook said it would be possible to incorporate a hybrid model when students are out of school in which teachers could get students started, the students would continue, and the teachers could facilitate upon returning to the classroom.

Representative Carney said the NTI can be used for a flu epidemic and much more. The NTI is a very positive program due to the quality of instruction and higher participation rates. He encouraged superintendents to present data to elected officials in the community.

Representative Combs referred to Chairman Graham's comments regarding districts in eastern Kentucky who are more greatly affected due to internet access, technology, greater fiber speeds, and a more affordable price. Improvements in these areas will benefit both education and economic development.

In response to Senator Wise's question, Mr. Cook said the minimum participation rate that schools must achieve is a district and local school board decision. The participation rate should be within two or three points of the district's regular attendance rate and does not feel there is any abuse in the system of pulling students out of regular class to complete the NTI days when no technology devices are available at home. Districts set up times that are built into study times so as not to pull students away from regular class instruction.

Presentation: Every Student Succeeds Act

Senate President Robert Stivers introduced U.S. Senator Lamar Alexander, two-term Governor of Tennessee, Secretary of Education under President George Herbert Walker Bush, and three-term U.S. Senator. Senator Alexander has been recognized for his work in education for several years, most recently receiving the newly created James Madison Award to recognize members of Congress who support federalism and the 10th Amendment of the U.S. Constitution guaranteeing states' rights. He said Senator Alexander would talk about the Every Student Succeeds Act (ESSA) and, in conjunction with that, President Stivers said the Senate will again make education accountability a priority bill and use SB 1 as the framework for defining the standards, looking at a new system of accountability, and returning more control to local systems.

Senator Alexander said Kentucky lawmakers have an opportunity to do what it wants with its future education policy with the passage of ESSA, which replaced the NCLB Act signed by President Bush in 2002. Senator Alexander said the U.S. Department of Education (USDE) has become a national school board over the last 15 years, making states jump through hoops on education policy to receive Title 1 money. Concerns about the federal government's overreach regarding how states set education standards and policy have been addressed in ESSA.

Senator Alexander said ESSA erased the mandate of states having Common Core academic standards, as the resistance came because Washington was telling states what to do. The concept of adequate yearly progress is now moot, as is federal testing- based accountability and the federal school turnaround plan. Kentuckians will see the implementation of the Act over the next few years. States will submit their new Title I plan to the federal government between now and July 2017, and implement the plan upon its acceptance. He urged state senators and representatives to formulate their plans with lawmakers, superintendents, local school boards, and teachers. Deciding how to improve schools and education policies will return to the state with implementation of ESSA.

Representative Graham commended Senator Alexander for the bipartisan efforts of the Act and said Kentucky has set its own state standards and education policy, crafted with a coalition of educators, businesses, and legislators. He said that, as education evolves, the Kentucky core standards will change.

Senator Alexander said Kentucky lawmakers have a rare opportunity to change Kentucky's future educational policy with the passage of ESSA for three reasons. The first reason is NCLB and its long overdue reauthorization were replaced by ESSA. Secondly, it is an opportunity for every state to write a new Title 1 plan. Title 1 funding for Kentucky is about $215 million dollars, but Kentucky spends $7.5 billion on education. The law and rules being discussed are for 3 percent of the money. Kentucky will be writing a new plan before July 2017, so there is ample time to get it right. Thirdly, it is an unusual opportunity because a new coalition of people who normally disagree on education have come to a consensus with ESSA. The National Education Association (NEA) and the American Federation for Teachers (AFT) are strongly in favor of ESSA, which provides an opportunity for a coalition, comprised of governors, chief state school officers, superintendents, school boards, principals, parents, and teachers, to create a new plan about Kentucky's future in elementary and secondary education.

Senator Alexander said after the NCLB act was implemented in 2002, Race to the Top came next in 2009, and in 2011 came the conditional waivers, long after Congress had realized the law was unworkable. Under these systems, all schools in the country appeared to be "failing schools." To manage the status, most states applied for a waiver from NCLB. At that time, the Education Secretary agreed to the waiver, but only in exchange for Washington to be able to dictate standards, tests for standards, federal accountability, and teacher evaluations, which created an enormous backlash from the states.

Senator Alexander expressed concerns about proposed ESSA regulations. The law must be implemented in the manner written by Congress. The proposed regulations from USDE threaten the consensus of the coalition that developed and overwhelmingly supported the bill.

The first regulation of concern regards the supplementing, not supplanting, funding provision. ESSA provides that federal money received must be in addition to what the districts are already spending. Regardless, the legislation specifically prohibited the USDE from deciding how to spend state and local money with the receipt of Title 1 money, which has been proposed in regulation. Senator Alexander said he will adamantly oppose this.

Senator Alexander said he is working with the White House and USDE Secretary to make the regulations consistent with law. One of the advantages of the new law is it includes a period of stability, which will prevent Washington from changing the rules for a specified period of time. The proposed regulations raise questions about whether Washington will try to grade academic standards on schools that are succeeding or failing.

Senator Alexander suggested working with a broad coalition of teachers, superintendents, and others between now and July 2017 to determine what is best for Kentucky. He said 90 percent of the minimum requirements the law should include are most likely being followed today in Kentucky. The state should not allow the U.S. Secretary of Education to become a national schoolboard chairman. He stressed the importance of being very outspoken regarding this topic.

Senator Alexander said it is important to recognize the difference between a federal regulation and federal guidance. A regulation has the force of law; federal guidance is only a suggestion and does not have to be followed.

Senator Alexander said each state should have a good balance in the number of state rules compared to federal rules. ESSA presents an opportunity to look at KDE's rules and ensure there are not too many state rules that may intimidate local school districts. If the USDE does not approve the state's ESSA plan, a rationale must be provided along with an opportunity for hearing, review, and resubmission. If the USDE still rejects, Kentucky can involve the courts.

Senator Alexander said an opportunity is provided for states to assert themselves and recognize the path to higher standards and better teaching, but the real accountability lies through Frankfort and local school boards and classroom teachers and not through Washington, D.C.

In response to a question by Chairman Wilson, Senator Alexander said Kentucky should form a coalition to set its own standards, tests, and teacher evaluations and determine what the state's educational future should look like. Kentucky has been a leader in the past in many education areas and should continue on that path.

In response to a question by Senator Wise, Senator Alexander said that in the ESSA provisions regarding comprehensive support for lower performing schools, KDE is not required to initially intervene, but KDE approves the school district plan, monitors that plan, and decides what constitutes acceptable improvement. If progress is not made in four years or less, the USDE advises action but will not dictate to KDE what action to take.

In response to a question by Representative Watkins, Senator Alexander said it is essential to have more than one test to adequately cover accountability and competency. A single test used to judge teachers and schools is not feasible; however, the 17 federally mandated, Kentucky-designed tests in reading, math, and science are only one indicator of a teacher's performance. Many mandated state tests may be construed as over testing but are being given to prepare students for the single federal test, which will not be necessary once law is passed. Senator Alexander said he agrees that over-testing is a problem.

In response to a question by Representative Smart, Senator Alexander said the success experienced in the priority school process in Kentucky will not change under the new federal act. KDE will continue to identify the bottom 5 percent and provide assistance to those districts. Under the new law, underperforming schools must be identified to qualify for federal money, but the plan for correction should be Kentucky's decision.

In response to a question by Representative Stone, Senator Alexander said if local agencies need an extension of time to be fully compliant as implementation goes forward, Kentucky could request additional time. The USDE secretary proposed a regulation that would have compressed the application schedule more than Senator Alexander and Senator Murray felt is appropriate. The deadline should allow states sufficient time to establish the coalition and make recommendations. Failure to submit the plan before July 2017 will result in funds being lost for an entire school year. Representative Stone said progress in education is Kentucky's highest priority and accuracy should be assured.

Representative Graham commended Senator Alexander and Senator Murray, who co-sponsored ESSA, for their bi-partisan efforts and emphasized non-partisan voting is essential for the important issue of education. Success in educational policies contributes to our economic development success. The Kentucky Core Standards are based on Kentucky knowledge and information gathered by engagement from parents, teachers, and the education community. Commissioner Pruitt has traveled throughout Kentucky to obtain input from schools, businesses, and the financial community. This input is crucial for policy development. Senator Alexander emphasized the need for parties to work together and make compromises for the common good of their citizens to get positive results on such an important issue. Better schools equal better jobs, but compromise between parties is important.

In response to Representative Flood's question, Senator Alexander said the federal government's role in holding Kentucky accountable to the goals that were set is reflected in a number of provisions in the new law. Title 1 dollars must meet certain criteria, including tests must be challenging, underperforming schools must be identified and submit a corrective plan, and results of the tests must be published and categorized by groups. He suggested a way to ensure federal dollars help the poorest children is to allow federal dollars to follow each Kentucky low-income child to the school the child chooses to attend.

Representative Carney thanked Senator Alexander for his insight on regulation issues and expressed his excitement for ESSA. He reported that Kentucky requires the 17 federal tests plus social studies at the state level, although there is some testing following local regulations.

Senator Alexander commended the testimony of Commissioner Pruitt before the U.S. Senate Education Committee on ESSA on behalf of Kentucky. He testified about the importance of adhering to the law the way it is written and the importance of having a coalition, including consultation with educators.

In response to Senator Carroll's question, Lindsay Fryer, Senior Education Policy Advisor to Senator Alexander, said the law is very clear that students with disabilities cannot be left behind and must be included in all aspects of Kentucky's education system. There is some flexibility for students with the most significant cognitive disabilities to take an alternative assessment. Senator Alexander said there is not as much flexibility in this area as he would like, and he is also concerned with the lack of federal funding for children with disabilities.

In response to Chairman Wilson's question, Senator Alexander said there is a strong charter school provision and strong bi-partisan support in the U.S. Senate Education Committee. Charter schools are public schools in which teachers have more freedom to teach and parents have more freedom to choose the school. ESSA and the appropriation bills increase support for the startup and funding of charter schools. The topic of early childhood created a big difference of opinion, but compromises were made. Republicans argued that the federal government is already spending $22 billion per year on early childhood education and that communities and states should be allowed to take that money and let it follow the children in a more effective way. Democrats argues that a federally funded universal preschool education program is needed. Ms. Fryer said the compromise is that the Health and Human Services Department is working with the USDE to provide money to states to allow them to coordinate existing funding streams that are related to early childhood education and to allow for additional needs for children once the money is coordinated. Senator Alexander suggested that Kentucky look at the federal dollars coming into Kentucky and ensure that the flexibility for expenditure is effective.

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

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 3rd Meeting of the 2016 Interim

August 25, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 25, 2016, 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., David P. Givens, Stan Humphries, Dennis Parrett, Dorsey Ridley, Damon Thayer, and Robin L. Webb; Representatives Lynn Bechler, Denver Butler, Derrick Graham, David Hale, Richard Heath, James Kay, Kim King, Martha Jane King, Michael Meredith, Suzanne Miles, Terry Mills, David Osborne, Sannie Overly, Tom Riner, Bart Rowland, Steven Rudy, Dean Schamore, Rita Smart, Wilson Stone, Chuck Tackett, Jeff Taylor, and James Tipton.

Guests: Miss Kentucky Laura Jones, House Speaker Greg Stumbo, Louisville Mayor Greg Fischer, John McCauley and David Duncan, Farm Service Agency.

LRC Staff: Lowell Atchley, Kelly Ludwig, Marielle Manning and Susan Spoonamore, Committee Assistants.

The July 20, 2016, minutes were approved by voice vote, upon motion made by Senator Thayer and second by Representative Tackett.

Mayor Fischer welcomed committee members and talked about food and bourbon being used as local assets for drawing people to the Commonwealth. He also stated that the local food movement has created better relationships between city and farm.

Introduction of Kentucky State Fair Board members and IJC on Agriculture members

Commissioner of Agriculture Ryan Quarles pointed out that the Department of Agriculture had virtually moved to the Fairgrounds during the State Fair. The numerous volunteers and individuals should be commended for the many hours of work to make the State Fair successful. He also talked about the benefits that the renovations to the Grain Center for Excellence would have on Kentucky and surrounding states. Through the Agricultural Finance Corporation, over half of the $55 million loan portfolio is dedicated to new and beginning farmers. Due to the Ag Tag Fund Drive, 4-H and FFA each received $184,000. The number of sheep and hog exhibits are up from last year. The Farm to Food Banks Trust Fund is helping to address issues relating to hunger in the Commonwealth.

Dr. Mark Lynn, Chairman, Kentucky State Fair Board, commended the hard work of Steve Kelly and Anthony Leachman, interim joint CEOs of the Kentucky State Fair Board, for keeping the State Fair moving forward. All members of the State Fair Board were in attendance at the committee meeting. He expressed gratitude to the new members serving on the board.

Steve Kelly, Interim Joint CEO, Kentucky State Fair, explained that the fair showcases Kentucky's agricultural history and recognizes young an old exhibitors. The State Fair has over a $15 million impact on the economy. It is important to understand that outside conventions contribute to the economic success of the Fairgrounds. He said that it is clear that there are areas, including infrastructure, at the Fairgrounds in need of significant repair. The board will continue to look at new ways to make the fair even more successful.

In response to Representative Stone, Mr. Kelly said that swine and sheep had record high entries, beef exhibitors were down a little, and dairy entries and horse show entries were consistent with previous years. Mr. Kelly said he had not had an opportunity to compare premiums with other states, but felt that the premiums in Kentucky are competitive.

Dr. Lynn explained that some shows had

scratches because children were in school. The board is offering free internet connection and training rooms where children may continue school work. It is important for youth to be able to participate in the fair.

Senator Thayer stated that last year there was a Senate Bill that would have mandated that school not start until the Monday after August 26, but there was considerable pushback on taking away local control of school calendars. The language in the bill was changed to read that the 170-day minimum of school instruction be eliminated for those school districts that would agree to the later school calendar start date. Even though the bill did not make it through the process, it will be presented again during the 2017 Regular Session. Research showed that the early start date of school leads to an economic loss of $400 million and of approximately $40 million in tax revenue to Kentucky.

In response to a question from Representative Mills, Mr. Kelly said that there is availability for a non-profit organization booth. Non-profit organizations are not charged the same as commercial vendors.

In response to Representative Smart, Dr. Cox stated that there are several consumer youth projects, such as preparing and curing a country ham. She said that there are over 800 country hams in competition.

Representative Graham said that children attending the fair can receive an excused absence if they have proof. Children should be educated and be college and career ready.

Senator Humphries encouraged the State Fair Board to find ways to accommodate non-profit organizations. He pointed out that the Lions Club promotes eye tests and provides glasses to those in need.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 3rd Meeting of the 2016 Interim

August 25, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Thursday, August 25, 2016, at 10:15 AM, in Louisville, KY. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Danny Carroll, Perry B. Clark, Ray S. Jones II, Alice Forgy Kerr, John Schickel, Wil Schroder, and Dan "Malano" Seum; Representatives Joseph M. Fischer, Jim Gooch Jr., Chris Harris, Thomas Kerr, Mary Lou Marzian, Reginald Meeks, Tom Riner, and Kevin Sinnette.

Guests: Andy Beshear, Attorney General of Kentucky; Rob Sanders, President of the Commonwealth Attorneys Association; Chris Cohron, Commonwealth's Attorney for the 8th Judicial Circuit; Amy Milliken, President of the County Attorneys Association; Bob Neese, Boone County Attorney; Heather Wagers, KSP staff attorney; Lieutenant Larry Newton, Kentucky State Police; Sargent Timothy Moore, Kentucky State Police; and Graham Gray, KSP staff attorney.

LRC Staff: Katie Comstock, Dallas Hurley, Alice Lyon, Chandani Kemper, Matt Trebelhorn, Elishea Schweickart, and Brad Gordon.

Welcome

Andy Beshear, Attorney General of Kentucky, welcomed the Interim Joint Committee on Judiciary to the Prosecutors Advisory Council (PAC) conference. Gina Carey, administrative head of PAC, along with the PAC council puts together the annual conference. Attorney General Beshear noted that the purpose of PAC is to ensure that County and Commonwealth attorneys across the state get the education, training, and resources they need in order to perform their jobs. An example of this training is how to effectively prosecute sexual assault cold cases, which is an imperative skill as kits from the rape kit backlog begin to come back.

Attorney General Beshear thanked the committee for its leadership in the passage of SB 63, also known as the Sexual Assault Forensic Evidence (SAFE) Act. He thanked the entire General Assembly for empowering the Attorney General's office through the 2016 budget by providing $4.5 million to the Kentucky State Police Crime Lab, $2 million for rocket dockets, and $8 million to fight substance abuse across Kentucky.

Prosecutorial Issues and Concerns

Rob Sanders, President of the Commonwealth Attorneys Association, Chris Cohron, Commonwealth's Attorney for the 8th Judicial Circuit, Amy Milliken, President of the County Attorney Association, and Bob Neese, Boone County Attorney, presented several issues facing Kentucky's prosecutors.

The Commonwealths Attorneys Association has several priorities for the 2017 legislative session, the first being protection of Persistent Felony Offender (PFO) laws and making sure that prosecutors have the discretion they need. This includes keeping the 2nd degree portion of the PFO laws, which Mr. Sanders stated is a fair middle ground for defendants. Mr. Sanders also stated that the association is open to discussing Class E felonies, especially helping control the prison population, but urged keeping the extradition power when thinking about anything under a felony.

Parole eligibility and sentence restructuring is another priority for the Commonwealth attorneys. Mr. Sanders expressed concern with the use of the terms "violent" and "nonviolent" when describing parole eligibility, stating that there are many crimes listed as nonviolent that are actually violent. Mr. Sanders suggested removing "violent" and "nonviolent" and instead using a ranking system for parole eligible inmates.

Chris Cohron said DNA on arrest is the single most important potential law enforcement tool. DNA on arrest is a noninvasive procedure that is conducted by using a mouth swab to gather 13 DNA markers from junk DNA. DNA on arrest could be used to prevent crimes. Since 1974, 90 percent of state prisoners have been repeat offenders and 70 percent of America's crime is committed by 6 percent of the defendants. Twenty-eight states have a DNA on arrest law. Mr. Cohron urged members to study this procedure further and consider it in the upcoming session.

Amy Milliken said that county attorneys handle all traffic cases, misdemeanor cases, public offenders, status offenders, paternity and support cases, guardianships, and family court cases in district court, and represent counties and the fiscal court.

Responding to a question from Senator Westerfield, Ms. Milliken stated that, besides funding, DUI issues are one of the biggest problems county attorneys face. Although DUI cases have dropped over the last several years, these crimes still drive a majority of court dockets.

Responding to a question from Senator Clark, Mr. Cohron stated that in Kentucky a search warrant for a blood draw in a DUI case can only be obtained if there is death or serious physical injury. He said that this may need to be amended to help prosecution.

Responding to a questions from Representative Harris, Mr. Sanders stated that several different crimes can be reclassified to help decrease the cost of incarceration in Kentucky. Funding addiction treatment and mental health treatment would help shift the cost of incarceration and provide help that some individuals need. Kentucky's penal system is difficult, and currently the best way to reduce the prison population is to triage rocket docket cases immediately.

Updating Kentucky's Sex Offender Registry: 16 HB 575

Representative Kevin Sinnette began by thanking the committee for listening to 2016 HB 575, explaining the importance of the bill before turning the presentation over to Heather Wagers, KSP staff attorney, Lieutenant Larry Newton, Sargent Timothy Moore, and Graham Gray, KSP staff attorney.

Mr. Gray discussed equivalent offenses, stating that a revision of KRS 17.500(3)(a) is needed to provide equivalent offense from other language similar to that in the sex crime definition. Without this change, some offenders are not having to register on Kentucky's Sex Offender Registry (SOR). Kentucky has no basis to register a resident that is convicted of a similar offense against a minor victim in another state. Also, because these individuals reside in Kentucky, they cannot be deemed a "move-in resident" and be required to register.

Another concern is move-in offenders with military or federal convictions. Mr. Gray stated that KSP would like to expand KRS 17.510(7) to include federal and military convictions. This would help avoid the cycle of Kentucky relying on a duty to register under federal law, while federal and military courts defer to the states. There is no military sex offender registry or federal sex offender registry.

Mr. Gray discussed collecting palm prints at crime scenes. Offenders often leave as many, if not more, palm prints at a crime scene as fingerprints. Many times these palm prints are more usable than fingerprints. He requested the committee to consider amending KRS 17.500(6) to add palm prints to the definition of registrant information. Over 20 states require palm prints of sex offenders and/or other criminals.

Another suggestion dealt with foreign travel, requiring registrants to provide passports and immigration documents. This information helps law enforcement agencies to locate and apprehend these sex offenders when they are traveling overseas. Given the sensitivity of this information about a registrant, KSP suggested that the information could be exempt from posting on the public website by amending KRS 17.580.

KSP suggested several corrections to statutory references. These corrections include a change to KRS 17.520(2)(a)2 to read "unlawful imprisonment" rather than "unlawful confinement" and a change to KRS 17.545(1) to include playgrounds and daycare facilities. KSP suggested amending KRS 17.545 to place limits on registrants residing with minors. Mr. Gray stated KSP is seeking an annual registration fee of $75. This fee is "day-one forward," meaning that it would only apply to registrants that committed a registrable offense on or after January 1, 2018. This fee will help to keep the SOR program solvent; the program currently costs the state about $694,028.94 annually. There will be a registration fee waiver exemption for impoverished registrants.

Responding to a question from Representative Gooch, Mr. Gray stated that the registry lists the severity of an offense. Ms. Wagers said that each offender's actual conviction can be viewed online on the Kentucky SOR website.

Responding to a question from Representative Kerr, Mr. Gray said KSP welcomes suggestions for statute changes that would improve SOR.

With there being no further business, the meeting was adjourned at 11:43 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 4th Meeting of the 2016 Interim

September 19, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 19, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Rick Rand, Co-Chair; Senators Chris Girdler, David P. Givens, Denise Harper Angel, Stan Humphries, Dennis Parrett, Wil Schroder, Brandon Smith, Robin L. Webb, Stephen West, and Max Wise; Representatives Linda Belcher, John Carney, Larry Clark, Jeffery Donohue, Myron Dossett, Kelly Flood, Martha Jane King, David Meade, Terry Mills, Brad Montell, Marie Rader, Bart Rowland, Steven Rudy, Sal Santoro, Dean Schamore, Arnold Simpson, Rita Smart, Wilson Stone, Tommy Turner, Addia Wuchner, and Jill York.

Guests: Hood Harris, President, Hollie Spade, AT&T Kentucky; Garry Watkins, President, Wabuck Development Company, Leitchfield KY; Mike Hynes, President, Housing Partnership, Inc., Louisville KY; Lewis Diaz, President, The Kentucky Affordable Housing Coalition and Partner at Dinsmore & Shohl, LLP, Covington KY.

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

Approval of the Minutes

Senator Parrett made a motion, seconded by Representative Donohue, to approve the minutes of the August 25, 2016, meeting. The motion carried by voice vote.

Testimony regarding actions taken by AT&T since the 2015 deregulation bill was enacted by the General Assembly

Hood Harris, President, AT&T Kentucky, testified on AT&T Kentucky's investments in the state's telecommunication network since the passage of 2015 Regular Session House Bill 152.

Mr. Harris explained that HB 152 was a first step in updating Kentucky's outdated telephone lines. The bill increased the investment in high speed internet infrastructure and created of jobs. By the end of 2016, AT&T will have expanded the fiber optic network to bring more Kentuckians access to the latest in wireless services through the construction of 32 new cell sites.

Mr. Harris stated that AT&T has worked closely with other communication providers, the Kentucky Department of Education, and every school district to stretch fiber based high speed internet to all 173 school districts. This upgrade in connectivity has allowed Kentucky to be the first state to hit a national benchmark set in 2012.

In response to a question from Representative King, Mr. Harris explained that the Connect America program is adding 84,000 locations to underserved areas of the state for internet. The FCC informs AT&T the areas that internet service needs to be provided, and AT&T in turn is paid a subsidy to help pay for the upgrades.

In response to a question from Representative Flood, Mr. Harris stated that AT&T will continue to provide high levels of service to all 173 school districts within the state.

Discussion on the affordable housing tax credit bill introduced during the 2016 Regular Session

Garry Watkins, President, Wabuck Development Company, Mike Hynes, President, Housing Partnership Inc., and Lewis Diaz, President, The Kentucky Affordable Housing Coalition and Partner at Dinsmore & Shohl, LLP, testified about the benefits of affordable housing credits and gave an overview of 2016 House Bill 542, which was introduced in the 2016 Regular Session but did not pass.

Mr. Diaz stated that the affordable housing tax credit bill mirrors the federal tax credit program that was enacted in 1986 and that provides a per capita allocation. In 2017, the U.S. Treasury will allocate $10.3 million of federal low income housing tax credits to Kentucky. Because the low income housing tax credit is a 10 year credit, the program will yield approximately $97,850,000 of private equity investments. Between 2009 and 2014, the tax credit assisted an average of 1,045 individuals and families annually through the new construction or rehabilitation of multifamily residential units.

Mr. Hynes explained that Lexington and Louisville are seeking to establish local funding for housing finance. The Lexington Affordable Housing Trust Fund has received pledges of $7 million total investment during the previous 3 years. Louisville CARES has a $12 million total investment by Louisville Metro in workforce housing. These establishments address housing issues for low household incomes, aging household stock, and lack of local resources.

Mr. Diaz said that the goals of the proposed legislation were to increase the number of annual housing construction starts, preserve Kentucky's stock of existing affordable housing, increase the amount of private equity invested in the Kentucky market, facilitate and enable investment in Kentucky's poorest counties, and allow for additional investment in special programs such as Recovery Kentucky.

Mr. Diaz said that a recent study calculates that a state low income housing tax credit is expected to incentivize roughly 450 total additional units. Assuming that each unit costs an average of $80,000 to construct, the total annual construction spending is expected to be $36 million. The projected $36 million of annual capital investment is estimated annually to generate 394 jobs, 187 direct construction jobs and 208 indirect and induced jobs. With this credit there will be no taxpayer cost in the biennium, no state credits can be awarded until construction is complete. There is no possibility of a fiscal impact until at least 2019. Architects, development firms, and construction workers will be creating jobs and buying materials which would create a short term increase in state and local revenues. The actual cost of implementation is minimal because the credit works in tandem with the federal credit.

In response to a question from Representative Schamore, Mr. Diaz explained that with the low income housing tax credit there is a ceiling that rent cannot exceed and for this credit, unlike other government programs, there is no subsidy for rent.

In response to a question from Representative Clark, Mr. Hynes stated that in the case of West Louisville, where there are homes abandoned that would cost more to renovate than what they are worth, a tax credit program is beneficial to get the homes functional again.

In response to a question from Representative Stone, Mr. Diaz stated that how the credit is allocated, whether certain percentages go to build homes for the elderly, section 8 housing, or other government programs, can be determined by legislative language. Currently, the market drives what is being renovated and constructed.

With no further business before the committee, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 2nd Meeting of the 2016 Interim

September 19, 2016

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 19, 2016, at 10:30 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; Senators Stan Humphries and Robin L. Webb; Representatives Sal Santoro, John Short, and Jim Stewart III.

Guests: Jon Wilcoxson, Director, Division of Maintenance, Department of Highways, Transportation Cabinet; John-Mark Hack, Commissioner, Department of Vehicle Regulation, Transportation Cabinet; Richard Sanders, Commissioner, Kentucky State Police; and, Samantha Davis, Legislative Liaison, Transportation Cabinet.

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

Overview of Maintenance Spending

Jon Wilcoxson, Director, Division of Maintenance, Department of Highways, Transportation Cabinet, provided a brief overview of the current highway maintenance budget and fiscal year 2016 spending. The largest amount spent was on snow and ice treatments, and the cabinet hopes to improve the allocation of winter resources by sharing with other counties and districts. Low-volume routes formerly on a two-year striping schedule have been changed to a three-year striping schedule. Consideration of preventive maintenance measures would save money rather than waiting until rehabilitation or reconstruction becomes necessary.

In response to questions from Senator Webb, Mr. Wilcoxson said low-volume routes under 4,000 average daily traffic (ADT) are not required to be striped based on the Federal Manual on Uniform Traffic Control Devices, though Kentucky typically stripes any road that is wide enough to be striped. This year, KYTC is putting off striping low-volume roads (below 4,000 ADT). The local highway districts submit their list of routes to be prioritized for striping to the central office, and a master list will be provided to the subcommittee at a later date. Also, lists of structurally deficient bridges and primary system pavement needs will be provided.

In response to questions from Representative Stewart, Mr. Wilcoxson said the state has not owned striping equipment since 2005. He will provide a breakdown of equipment costs, which includes depreciation, repair costs, fuel costs, insurance, and how many hours the equipment is used per year, at a later date.

In response to questions from Chair Wise, Mr. Wilcoxson said a comparison of amounts paid to contractors versus in-house costs for snow removal is being reviewed by the Division of Accounts. He stated that all indications are that significant savings could be realized if the cabinet would take over more snow removal duties. The amount spent on preventive maintenance is increasing, and it is anticipated that some federal funds will become available for the parkway system in the next fiscal year. Most of the preventive maintenance projects are asphalt, with some projects using alternative treatments such as 5/8" thin layer surfacing. Not all asphalt being used is the hot mix variety.

Senator Humphries commented that a comparison of contract labor versus hired crews for mowing and snow removal should be considered. Depreciation of new equipment should also be taken into consideration.

Increased Enforcement and Revenue

John-Mark Hack, Commissioner, Department of Vehicle Regulation, Department of Highways, Transportation Cabinet, and Richard Sanders, Commissioner, Kentucky State Police, provided an overview of commercial vehicle enforcement (CVE), including its impact on Road Fund revenues. The agencies are facing the challenge together, working cooperatively to develop long-term solutions to enhance public safety, support the trucking industry, and ensure the timely, efficient, and proper collection of Road Fund revenue. Both agencies expressed a desire to increase the number of CVE inspectors and to keep weigh stations open longer hours.

In response to questions from Chair Wise, Commissioner Sanders said hiring 50 additional inspectors could cost the state approximately $250,000 to $500,000 per year, with revenues possibly doubling from the current level of about $1 million annually, as a result.

In response to questions from Senator Webb, Commissioner Hack said he would provide more information on mileage taxes at a later date.

In response to questions from Representative Stewart, Commissioner Sanders said he would provide more information at a later date on numbers of inspections, number of tickets issued, as well as data from a study being performed by the University of Kentucky.

There being no further business before the subcommittee, a motion for adjournment was made by Senator Webb and seconded by Senator Humphries, and the meeting was adjourned at 11:40 AM without objection.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 4th Meeting of the 2016 Interim

September 9, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, September 9, 2016, 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, Jimmy Higdon, Ray S. Jones II, Christian McDaniel, Dan "Malano" Seum, and Damon Thayer; Representatives Tom Burch, Denver Butler, Larry Clark, Dennis Horlander, Joni L. Jenkins, Reginald Meeks, Jerry T. Miller, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, and Susan Westrom.

Guests: Jill Farmer, CTRS, Frazier Rehabilitation Institute, Louisville, KY, Cliff Burnham, CTRS, Cumberland Hall, Hopkinsville, KY, Dale Lynn, OTR/L, Lynn Occupational Therapy, Owensboro, KY, Leigh Ann Thacker, Kentucky Physical Therapy Association; Kathryn Warren, Certified Genetic Counselor, University of Louisville, Amanda Henson, VP Oncology, Baptist Health Lexington.

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

Approval of minutes of August 30, 2016

A motion to approve the minutes of the August 30, 2016 meeting was made by Representative Dennis Keene and seconded by Senator Damon Thayer. The motion was adopted by voice vote.

Senator Schickel recognized Marc Guilfoil and Jamie Eads from the Kentucky Horse Racing Commission who had been put on the agenda to explain a Kentucky Administrative Regulation. Senator Schickel said that he had spoken with them regarding the regulation and that their testimony was not needed. He thanked them for coming to the meeting.

Recreation Therapists

Jill Farmer, manager of recreation therapy at Frazier Rehab Institute in Louisville, said that she has worked in the recreational and community settings for over 23 years and explained that recreation therapy is provided to individuals with disabilities and disabling conditions covered under the Americans with Disabilities Act. Therapists use a variety of techniques such as arts and crafts, trained therapy animals, dance, drama, and community outings. Recreation therapists should not be confused with recreational workers, who organize recreation activities for enjoyment or entertainment. Recreation therapists practice in hospitals, community based parks and recreation programs, mental health facilities, Veteran's Administration facilities, schools, assisted living communities, and day care settings. Clients are people with brain injuries, mental illness, intellectual disabilities, dementia, spinal cord injuries, Alzheimer's disease, and cardiovascular and pulmonary diseases, and veterans and other wounded military personnel.

Eastern Kentucky University is the sole provider of therapeutic recreation curriculum in the state. Kentucky has 113 professionals with certified therapeutic recreation specialists (CTRS) credentials. Recreation therapy is an integral component of health and wellness and recovery and quality of life. In recent years, Kentucky has hosted the National Wheelchair Basketball tournament, the United States Quad Rugby Championship, and the National Collegiate Wheelchair Tennis tournament.

Cliff Burnham, Director of Recreation Therapy Services at Cumberland Hall Hospital in Hopkinsville, said he has been practicing recreation therapy for 17 years. The American Therapeutic Recreation Association (ATRA) was incorporated in 1984 to recognize recreation therapy as a systematic process that utilizes recreation and other activity-based intervention to address the assessed needs of individuals with an illness and/or disabling condition, as a means to improve psychological and physical health, recovery, and well-being. ATRA defines recreation therapy as "a treatment service designed to restore, remediate, and rehabilitate a person's level of functioning and independence in life activities." It also helps to promote health and wellness and reduce or eliminate the activity limitations and restrictions to participation in life situations caused by an illness or disabling condition.

The National Certifying Body for Recreation Therapy (NCTRC), established in 1981, defines the scope of service for recreation therapy. The primary purpose of recreation therapy is to improve health and quality of life by reducing impairments of body function and structure and reducing activity limitations, participation restrictions, and environmental barriers to the clients. The goal is to facilitate full involvement in community life. This is consistent with standards of practice in the U.S. Department of Labor, and the Bureau of Labor Statistics according to the Occupation Outlook Handbook.

Certified therapeutic recreation specialists of Kentucky are asking for licensure in order to ensure the safety and protection of the public. Licensure will provide a clear and concise definition for the scope of practice for the profession and will set minimum standards for education, experience, and testing of those practicing therapeutic recreation. Other states with licensure for recreation therapy include North Carolina, New Hampshire, Oklahoma, and Utah. Fifteen additional states pursuing licensure.

Senator Schickel said there are two sides in requesting licensure, one being public protection; however, he has learned that public protection is a code word for creating a bureaucracy to keep competitors out and use continuing education to charge fees. The committee is left to decide if these reasons are necessary reasons for licensure. It would be helpful if the committee could be provided with a draft of the proposed legislation as soon as possible.

In response to a question from Representative Owens, Ms. Farmer said Eastern Kentucky University has a four year bachelor degree in Parks and Recreation Administration with an emphasis in Recreation Therapy. There will be a fee for licensure. She added that currently hospital do require that recreation therapists have a certificate.

In response to a question from Representative Clark, Ms. Farmer said the scope of service and language appropriate to the profession need to be put in place.

In response to a question from Representative Burch, Mr. Burnham said the service animals used in his facility came from Canine Companions for Independence, a national organization that breeds, trains, and places their dogs to meet the needs of clients. Mr. Burnham's facility does not train the dogs. Ms. Farmer said dogs are trained a minimum of two years to meet specific needs of clients such as mobility, emotional, or trauma issues.

In response to a question from Senator Higdon, Mr. Burnham said there would be a new board created. Ms. Frazier said all 113 certified therapists would seek licensure. Senator Higdon commented that there would be a fiscal impact due to the state paying 30 percent of the Medicaid cost.

In response to a question from Representative Horlander, Ms. Frazier said there are plans to work with representatives from the occupational therapy and recreation therapy associations.

Leigh Ann Thacker, legislative agent for the Kentucky Physical Therapist Association, said that KPTA is not opposed to recreation therapists being licensed or billing for their services. However, the KPTA has seen draft language and is concerned about scope of practice. It has attempted to meet with the recreation therapists several times, but meetings have been scheduled and then cancelled. Bills have passed in other states, so there is language that can be worked out.

Beth Ennis, private practitioner, Associate Professor at Bellarmine Physical Therapy Program and member of KPTA, said that KPTA has provided the recreation therapists with language from Utah and Oklahoma that are very specific to the scope of practice for recreation therapy, including a definition of recreation therapy. This language was not in the draft that KPTA saw. Neither was there a code of ethics.

Dale Lynn, OTR/L, Vice President of the Kentucky Occupational Therapy Association, said the recreation therapists have a draft. The description of recreation therapy is for occupational therapy licensed in Kentucky. The draft describes providing psycho-social services; however, requirements in a bachelor's degree are not adequate to receive a minor in psychology.

Ed Dobrzykowski, representing the KPTA, said the proposed legislation should have language that would not preclude other licensed professionals from providing services.

Genetic Counselors

Kathryn Warren, MS, CGC, said that she is board certified as a Genetic Counselor and works at the University of Louisville. Genetic counselors are healthcare providers with a two year, Master's level program, and have expertise in molecular biology, medical genetics, and psycho-social counseling. National accreditation of genetic counselors is administered by the American Board of Genetic Counseling. There are approximately 20 genetic counselors in Kentucky. Ms. Warren said she primarily works in prenatal genetic counseling, but is also contracted with Norton Healthcare. A prenatal genetic counselor meets with patients to discuss their personal or family history, ultrasound findings and test results, and how those findings might affect current or future pregnancies. Genetic counselors contact patients with results from the state mandated new born screening program to explain medical aspects of the results of the screening and provide psychological support during the next steps in treatment. There are cancer genetic counselors, and pediatric genetic counselors to name only a few.

Kentucky does not have a law for licensure of genetic counselors. There are 21 states, including Ohio, Indiana, Tennessee, and Virginia, that have licensure, 20 other states that have bills introduced. Licensure would provide greater access to genetic counselors in Kentucky. It is anticipated that genetic counselor fees for services would be lower than physician charges. There is rapid growth in the number of genetic tests available. In a survey of non-genetics physicians, 72 percent responded that their knowledge of genetics was fair to poor. Genetic counselors take the burden off physicians to research genetic conditions and treatment of genetic diagnosis to adequately inform patients. Licensure of genetic counselors will improve access to counseling and treatment.

Amanda Henson, Vice President of Cancer Services at Baptist Health Lexington, said that Baptist Health is fortunate to have two board certified genetic counselors on staff. These two counselors travel or provide telemedicine to hospitals at Hardin, Paducah, and Madisonville. With the changes in targeted cancer therapies and the genomic testing movement, these counselors are integral in planning patient treatment.

In response to a question from Senator McDaniel, Ms. Warren said counselors help with deciding which tests are appropriate to have done, then help with the interpretation and management of the results from the test. Ms. Henson added that counselors work with surgeons who do not have the expertise in knowing which genetic tests to order.

In response to a question from Representative Meeks, Ms. Warren said genetic counselors do not make recommendations, or tell someone they should not have children, or what to do with a pregnancy, or even to have a test. Genetic counselors are in the business of providing information. Kellie Jackson, Genetic Counselor at the University of Louisville, said part of the definition of genetic counselors is to not influence people's decisions. Genetic counseling arose directly against the eugenic movement. They do not want to influence society but instead want to provide information and education.

In response to a question from Representative Westrom, Ms. Warren said there are 20 genetic counselors in the state and about 4,000 nationally. Ms. Henson added that there are nine positions in the state that employers have been unable to fill.

There being no further, the meeting was adjourned at 11:02 AM.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

August 12, 2016

Call to Order and Roll Call

The Program Review and Investigations Committee met on Friday, August 12, 2016, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Terry Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Terry Mills, Co-Chair; Senators Perry B. Clark, and Whitney Westerfield; Representatives Tim Couch, David Meade, Rick Rand, Arnold Simpson, and Chuck Tackett.

Legislative Guest: Senator Jimmy Higdon.

Guests: Ken Meng, Executive Director for Tax Policy & Regulatory Matters, Linda Benton, Manager of Miscellaneous Tax Branch, Office of Sales & Excise Taxes, Department of Revenue; Anna Casey; John Chilton, State Budget Director; Stacey Hickey, Bernard Miles.

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

Minutes for July 14, 2016

Upon motion by Representative Simpson and second by Representative Tackett, the minutes of the July 14, 2016, meeting were approved by voice vote, without objection.

Kentucky Inheritance Tax

Co-Chair Mills explained that this topic arose because a constituent contacted him regarding her experience with the inheritance tax.

Mr. Meng summarized the history of the tax. In 1998, Class A beneficiaries were exempted from inheritance tax. In 2002, the estate tax was phased out and replaced with a tax deduction. The estate tax is a federal tax on the value of the estate. The inheritance tax is a state tax upon the beneficiary based on the relationship to the decedent.

The tax table determines the amount of inheritance tax due. In 1998, $105 million was received. The tax return is due no later than 18 months after the date of death of the decedent. The estate tax was phased out in 2004. Since 2006, receipts have been consistently less than one-half of the amount collected in 1998. A tax return must be filed when an estate passes to taxable beneficiaries. A 5 percent discount is applied when the return is filed within 9 months of the date of death. This occurs about 50 percent of the time.

Class A beneficiaries, who are immediate family members, are exempt from paying inheritance tax. Class B beneficiaries, who are extended family members, receive a $1,000 exemption and pay graduated tax rates. Class C beneficiaries are those not included in Class A or B. They receive a $500 exemption and pay graduated tax rates. Some organizations, such as educational institutions, religious institutions, and associations, are exempt.

Ms. Benton explained the process for reviewing inheritance tax returns. Probate documents are reviewed and, if a return is not received, a letter is sent to the executor to inquire about the beneficiaries and the status of the return.

Mr. Meng said that six states, including Kentucky, impose an inheritance tax. Two of those states also impose an estate tax. Ohio and Tennessee recently repealed their estate tax, and Indiana repealed its inheritance tax.

Representative Mills welcomed guests Senator Higdon, John Chilton, Stacey Hickey, and Bernard Miles.

Ms. Casey, a constituent of Representative Mills and Senator Higdon, explained her situation regarding inheritance tax. Originally from Massachusetts, she served as a nun for 21 years teaching high school math. She moved to Chicago and joined the Peace Corps. She was sent to Sierra Leone to work with the poor for 3 years. She moved to Louisville and taught for 33 years. During that time, she and a coworker, Mary Ann Graves, became roommates. They lived together for 45 years and bought six tenement houses. They also purchased a farm in Loretto, Kentucky.

At the age of 69, Ms. Graves passed away. Neither Ms. Graves nor Ms. Casey had wills, but they had discussed dividing their holdings evenly. Ms. Casey gave the four apartment buildings owned at the time to her nephews. She gave the farm to Ms. Graves' nephew and his wife Ms. Hickey. Ms. Casey's lawyer informed her that she would have to pay inheritance tax on the deal, but Ms. Casey thought it would be a minimal amount. Because the farm did not go to Ms. Casey's family, she incurred $168,000 of inheritance tax. She obtained a bank loan to pay the tax, which she struggles to repay. Ms. Casey said that, had she known about the taxes, she would have prepared for the eventuality and saved appropriately. She is worried for the debt to Ms. Graves' nephew and to others who may not be aware of the law. Ms. Casey said eliminating the inheritance tax would benefit the elderly and the young.

Representative Mills praised Ms. Casey for her courage in testifying.

Representative Simpson praised her for coming forth and for her service. Since the 1998 amendment, there are not that many people trapped in this net. Eliminating the revenue from this tax has consequences for funding of services. Since the recession, aid has been cut to children and higher education

In response to a question from Representative Simpson, Ms. Casey did not know how much of the tax bill is the original tax and how much is penalty and interest.

Representative Simpson urged Ms. Casey to talk to an attorney. He explained that it is difficult to eliminate a source of tax revenue without tax reform.

In response to a question from Senator Carroll, Mr. Meng said the inheritance tax is applied to whomever it defaults to if there is no beneficiary or will. The Revenue Cabinet has not looked into whether will be more revenue due to an aging population and inheritances going to nonprofits. The Budget Office may have more information on this. There are no residency requirements on inheritance tax because it follows the property.

In response to a question from Senator Carroll, Ms. Casey said that after Ms. Graves passed away, everything became hers. She consulted an attorney immediately after Ms. Graves passed away. He mentioned inheritance tax, but she assumed it would only be a few thousand dollars.

In response to a question from Representative Rand, Mr. Meng said there are an average of 4,000 inheritance tax returns filed each year. The average liability per return is about $10,000.

In response to a question from Representative Couch, Mr. Meng said he has not reviewed the case and confidentially would prevent discussion anyway.

Representative Couch commented that an unmined minerals tax is being imposed on people by the state on land whether it is being used or not.

In response to a question from Representative Simpson, Ms. Benton said that the state would not have a lien on the property in this case. The tax has been paid to the state. Ms. Casey is repaying a bank loan.

Representative Meade commented that inheritance tax and intangible property tax are the most unfair taxes. He hopes this is included when tax reform is brought before the General Assembly. Tax reform will not work as long as benefits are going to able bodied people.

Representative Mills adjourned the meeting at 1:55 pm.

GOVERNMENT NONPROFIT CONTRACTING TASK FORCE

Minutes of the 2nd Meeting of the 2016 Interim

August 22, 2016

Call to Order and Roll Call

The 2nd meeting of the Government Nonprofit Contracting Task Force was held on Monday, August 22, 2016, at 11:00 AM, in Room 131 of the Capitol Annex. Representative Russ A. Meyer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Russ A. Meyer, Chair; Senator Max Wise, Co-Chair; Senators Danny Carroll, Denise Harper Angel, and Stephen West; Representatives Dennis Horlander, Arnold Simpson, and Addia Wuchner, Promod Bishnoi, Danielle Clore, Samantha Davis, Tim Feeley, Robert Jones, Robin Kinney, Mardi Montgomery, Judy Piazza, and Michelle Sanborn.

Guests: Andrew English, Justice and Public Safety Cabinet, Tracy Thurston, Kentucky Housing Association, Charles Harman, Department of Education, Thelma Hawkins, Department of Education, and Beth Bowsky, National Council of Nonprofits.

LRC Staff: Judy Fritz, Van Knowles, Daniel Carter, and Jay Jacobs.

Senator Wise moved to approve the July 7, 2016 meeting minutes. Tim Feeley seconded the motion. The motion carried with a voice vote.

Understanding New OMB Guidance Regulations

Beth Bowsky, Policy Specialist for Government-Nonprofit Contracting with the National Council of Nonprofits, gave an overview of the OMB Uniform Guidance (Uniform Guidance) and its implications for Kentucky.

Uniform Guidance is the consolidation of eight OMB circulars related to grants and contracts and codified in the Code of Federal Regulations, effective December 26, 2014. Consolidation simplifies the process and avoids duplication and conflicts among the circulars. Uniform Guidance was created in response to several executive orders stating that the grants process needed to be streamlined and include more protections to prevent waste, fraud, and abuse. The Council on Financial Assistance Reform (COFAR), suggested combining the circulars. The ultimate goal of Uniform Guidance is to streamline contracting processes, strengthen oversight, and increase efficiency and effectiveness to improve outcomes.

Uniform Guidance is divided into three sections: Administrative Reforms, Cost Principle Reforms, and Audit Reforms. Under Administrative Reforms, pre-award requirements for states include: providing information specific to the contract or grant, making funds available for awards at least 30 days in advance, and following selection process criteria for competitive grants. There are about 1,000 OMB forms, but the federal government is looking at ways to reduce and standardize forms to ease the application and contracting processes. Cost Principle Reforms addresses the most important piece for nonprofits: paying allowable and indirect costs. The rules under Cost Principle Reforms are outlined and provide guidance as to which direct and indirect costs are accepted.

In response to a question by Representative Wuchner, Mrs. Bowsky stated that the federal government will be providing standardized forms for states to use. A question the state will have to decide is whether to continue to use the federal forms as the money passes through the state's procurement system.

Procurement requirements, under Uniform

Guidance, require nonprofits to follow federal acquisition regulations when making purchases using federal dollars. States may continue to use their own policies and procedures, but nonprofits must follow the new regulations.

Understanding Uniform Guidance definitions are important to ensure that monitoring procedure requirements are followed, for monitoring procedures are different depending on whether the procurement is considered a "grant" or a "contract." Grants are used to carry out a public purpose. Contracts are for acquiring property or services for the federal awarding agency or pass-through entity's direct benefit or use. A subaward is an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award. It does not include payment to a contractor. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Uniform Guidance differentiates between a "contractor" and a "subrecipient." While the differences do not affect indirect cost reimbursement, they affect how the recipient of the grant or contract should be monitored and audited. Contractors typically are awarded contracts, while subrecipients are typically awarded grants. Determining whether the money will be used for a contract or grant and whether the recipient is a contractor or subrecipient will establish whether the money is counted toward a single audit and other reporting and auditing requirements. Almost all federal funding passed through the state and awarded to nonprofits would be considered grants, even though the state would consider the transaction a contract. The transaction may continue through the state's procurement system so long as the monitoring and risk assessment align with Uniform Guidance regulations. There is an additional concern that the state does not require competitive bidding for some grants that would be required to be bid under Uniform Guidance.

Uniform Guidance has made changes regarding auditing. Uniform Guidance increases the limit for a single audit from $500,000 to $750,000. The state will want to investigate which nonprofits are getting single audits. The changes in auditing provide an emphasis on collaboration between agencies and nonprofits to reduce waste, fraud, and abuse, called "cooperative resolutions." The cooperative resolution process emphasizes agencies and nonprofits to work together to correct any findings in an audit with corrective action plans.

Uniform Guidance also requires any pass-through entity, like the Commonwealth, to notify a subrecipient in writing the amount of funds awarded, and the source of funds. Notification is important because it will help the nonprofit determine whether the funds will be counted towards the single audit threshold, and whether Uniform Guidance applies.

Before an award is finalized, the pass-through entity must complete a risk assessment of the subrecipient it has selected to receive the award. The risk assessment focuses on whether the nonprofit is able to properly manage government funds. The risk assessment will also determine what monitoring requirements apply.

Representative Wuchner asked the members to see who was aware of Uniform Guidance and whether they have implemented it. Few nonprofits and state agencies were aware or have implemented Uniform Guidance.

Educating state agencies and nonprofits about Uniform Guidance has been an obstacle. It was acknowledged that the federal government has not done a good job. In many cases, federal agencies are not applying Uniform Guidance correctly. To properly utilize Uniform Guidance, education will become essential.

Mr. Jones stated that in his experience there were variances in the level of implementation based on the type of grant and Mrs. Bowsky added it also depends on the federal agency.

If a nonprofit has a federally approved indirect cost rate, all pass-through entities are required to pay that rate. If a nonprofit does not have a federally approved rate and has never had a federally approved rate, it can either elect to use the ten percent de minimis rate or ten percent of modified total direct cost as its indirect cost reimbursement, or it can negotiate a rate based on federal cost principles. Federal cost principles are set to try to standardize allowable costs. Because of budget constraints, Mrs. Bowsky predicts that the difference in cost reimbursement will be made up by a reduction in services.

Indirect cost reimbursement applies to both contracts and grants under Uniform Guidance. There are exceptions if there is a cap in indirect costs in federal statute, and for any block grants created under the 1981 Omnibus Budget Reconciliation Act. Community services block grants, however, are subject to indirect cost reimbursement under Uniform Guidance.

Mrs. Bowsky stated that cabinets need to understand federal cost principles in terms of which costs are allowable, how to determine direct and indirect costs, and how to properly allocate costs so there will be consistency and regularity in negotiations.

Any payments not covering full costs is addressed by Uniform Guidance by the indirect cost requirement. The indirect cost requirement is a significant step forward toward the goal of more reasonable reimbursement for nonprofits. Ensuring proper implementation of the indirect cost requirements across all cabinets and their subdivisions will help resolve some issues with paying full costs.

In response to a question by Mr. Jones, Mrs. Bowsky stated that the nonprofit is required to be paid on a grant when there is an approved federal rate and that the state cannot change the rate.

The federal government is in the process of standardizing government contracting to the state level, and some of those processes can be passed down to nonprofits and local governments. Aligning with Uniform Guidance can avoid having two parallel systems and would provide information and guidance for decision making purposes.

Uniform Guidance requires reimbursements be made within thirty days of billing unless an agency detects there is something improper.

Before Uniform Guidance went into effect, federal agencies were allowed to submit some variations for approval. The Department of Education submitted several variations, which have different requirements than Uniform Guidance.

In response to a question by Mrs. Clore, Mrs. Bowsky stated that Uniform Guidance says what information must be in an application so the information will be consistent.

Mrs. Bowsky also stated definitions of additional terms not covered in the presentation and their meaning. The definition of indirect cost is organizational costs that are shared across programs according to Uniform Guidance. Administrative costs are for program administration which can be direct or indirect costs. Federal regulations usually cap administrative costs but rarely caps indirect costs.

In response to a question by Mrs. Clore, Mrs. Bowsky indicated the only state that has fully embraced Uniform Guidance is Illinois. She does not know of any negatives for implementing Uniform Guidance, but the change would not come easy.

Experiences and Perspectives from State Agencies

Charles Harman, Director of Budget and Financial Management with the Department of Education, stated that the combination of all the OMB circulars has gone well and that it has been a painless transition for his department.

Thelma Hawkins, Grants Branch Manager with the Department of Education, stated that the grants for education work in conjunction with the school year. The department is finishing its first year with the implementation of Uniform Guidance.

Tracy Thurston, Managing Director of Corporate Planning and Accountability with the Kentucky Housing Corporation (KHC), stated that KHC is the recipient of federal awards as well as pass-through funds to subrecipients in the state. KHC is considered a pass-through agency for state funds as well. Uniform Guidance has alleviated some of the issues that took place in the past. KHC has experienced some difficulty with different rule sets for state and federal awards. The biggest challenges so far are with subrecipient agencies and dealing with indirect cost rates. KHC does not have indirect cost rates approved. There is a lack of education with the subrecipients on the allowable indirect cost rate. Subrecipient monitoring is going to create more work for KHC. Overall, the Uniform Guidance has been easy to implement.

Discussion of Advantages and Disadvantages of mirroring OMB Guidance Regulations in Kentucky

Mr. Bishnoi stated that it has taken his agency a long time to get an indirect rate established. In dealing with the Commonwealth on indirect costs, he is only getting ten percent regardless if the federally approved rate is higher.

Mr. Jones stated that his organization has worked hard to get the federal rate and is not consistently getting the approved rate at the state level. There is a gap between the Commonwealth and the federal government that needs to be addressed.

Mr. Feeley stated that there may be some confusion about indirect costs, indirect rates, and administrative costs.

Representative Wuchner stated there needs to be a focus on clarifying the definitions of indirect costs, indirect rates, and administrative costs.

Mrs. Clore stated that using the single audit would simplify the monitoring process.

Representative Wuchner state that it would be important to discuss streamlining of the audit process.

Mr. Feeley stated that Kentucky should get ahead of the curve and embrace Uniform Guidance.

Mrs. Clore stated that there needs to be more training between nonprofits and the Commonwealth.

Representative Meyer said that the next task force meetings will be Wednesday, September 7th, 2016, at 1 p.m., Monday, September 26th, 2016, at 11 a.m., Monday, October 24, 2016, at 11 a.m., and Tuesday, November 15th, 2016, at 1 p.m.

A copy of the PowerPoint presentation and other meeting materials are a part of official record in the Legislative Research Commission Library. There being no further business, the meeting was adjourned at 12:05 p.m.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the 2nd Meeting of the 2016 Interim

August 16, 2016

Call to Order and Roll Call

The 2nd meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, August 16, 2016, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative James Kay, Co-Chair; Senators Alice Forgy Kerr and Max Wise; Representatives Linda Belcher, John Carney, and Mary Lou Marzian.

Legislative Guests: Representatives Derrick Graham and Arnold Simpson.

Guests: Bob Roland and Wayne Young, KASA; Erin Klarer, KHEAA; and Mardi Montgomery, EWDC.

LRC Staff: Joshua Collins, Janet Stevens, Avery Young, and Chris White.

Chairman Wilson called the meeting to order and recognized Co-Chair Representative James Kay and Co-Chair of the Interim Joint Committee on Education Representative Derrick Ramsey.

On a motion by Representative Marzian and a second by Representative Kay, the minutes of the December 1, 201,5 meeting were approved.

On a motion by Senator Wise and a second by Representative Kay, the minutes of the June 21, 2016 meeting, were approved.

Acceptance of 2016 Annual Report

On a motion by Senator Wise and a second by Senator Kerr, the 2016 Office of Education Accountability (OEA) Annual Report was accepted as presented at the June 21, 2016 meeting.

Special Education Update 2016

The OEA Director, David Wickersham, said the presentation would update two OEA reports published in 2008 and 2011 regarding special education. He introduced two members of his staff, Bart Liguori, Research Division Director, and Brenda Landy, Analyst, to present the Special Education Update 2016.

Ms. Landy said special education is designed to meet the unique needs of exceptional children, defined as a person under age 21 who differs from same-age peers in physical, mental, learning, emotional, and/or social characteristics and abilities to such a degree that the child needs special educational services to benefit from education. The statute and regulation define 13 categories of disability that may require special education.

Ms. Landy said the study updates several issues raised in previous studies completed by OEA regarding special education while at the same time identifying new and emerging issues of interest. For ages 3 through 21, there are 99,000 students in special education. For the purposes of SEEK funding for ages 5 through 20, there are about 89,000 students. These figures represent 13 to 14 percent of the population.

Ms. Landy said the OEA study analyzed student, personnel, and financial data from the United States Department of Education (USED), the Kentucky Department of Education (KDE) and the Education Professional Standards Board (EPSB). OEA spoke with KDE personnel who monitor and provide support to special education programs.

Special education and disabilities are defined in KRS 157.200 and 707 KAR 1:002(9), which mirror the federal Individuals with Disabilities Education Act (IDEA). Federal and state laws require that students with disabilities be educated in the least restrictive environment possible, preferably integrated with same-age peers in general education settings. Ms. Landy said that, in addition to special education, students often receive related services from specialists such as psychologists and physical therapists. To ensure instructional services are tailored to each child's unique needs, federal and state laws require a detailed Individualized Education Program (IEP), which must be reviewed and revised annually. The IEP is under the direction of the child's Admissions and Release Committee (ARC), whose members include the child's teachers, parents, a district representative, and others depending on the child's unique needs. The ARC has a gatekeeping role in determining whether evidence shows the child has a disability and whether the disability has enough adverse effects to require special education.

Ms. Landy said school districts must provide special education to children with disabilities, ages 3 through 21, who reside within their boundaries. This free and appropriate public education extends with some limitations to those not attending public schools, such as private schools, residential facilities, correctional facilities, and to those students suspended or expelled.

Ms. Landy said school and public health officials find children who need services through outreach efforts. Districts receive state and federal funds targeted to special education in addition to the local, state, and federal funds districts received for general education and other targeted programs.

The federal government has raised

expectations requiring that special education students be instructed and assessed on the same content as their peers resulting in lower assessment scores with special education students.

Ms. Landy reviewed three main issues raised by the OEA's 2008 analysis of special education data: identification, personnel, and funding.

Ms. Landy said the appropriate identification of special education students is important to ensure the students receive services which benefit them and to ensure the most efficient use of resources. In 2008, the percentage of students identified for special education in Kentucky was well above the national rate and was increasing. Rates varied widely among Kentucky districts in the prevalence of disabilities, the categorizing of disabilities, and the availability of qualified personnel to evaluate student needs. Variations between Kentucky and the nation, and even among districts in Kentucky, could reflect unintended consequences of funding mechanisms for special education. Students who require additional help to overcome learning difficulties have extra funds available if the student qualifies as a special education student. These funds are not necessarily available within the general education setting.

In response to identification concerns, OEA recommended that KDE provide more written guidance and a high identification rate should be a criteria considered when deciding which districts to audit. KDE audited IEPs in 39 districts and found that less than half of the 600 IEPs reviewed contained evidence of the nature and impact of the student's disability. While this does not imply the students did not need assistance, it raised questions about the type of assistance needed. Districts lacking the required evidence were given corrective action plans (CAP).

Regarding personnel, OEA recommended in 2008 that personnel and services should be based on the child's unique needs. The report suggested the student's learning difficulty may be better addressed by non-special education personnel, such as reading interventionists. Ms. Landy reported that most special education teachers are certified for all grades and many types of disabilities. Because teacher preparation programs do not ensure the necessary content knowledge and skills, ongoing training is essential. As for personnel issues, KDE issued more written guidelines and recommended consolidated monitoring on statewide issues, rather than targeted monitoring.

The 2011 OEA study pointed out that many districts spend more on special education than received in targeted revenue. The report discussed both the financial impact of a student requiring expensive services on a district and the inconsistencies in the effects of Kentucky's preschool funding and SEEK funding. OEA recommended issuing more written guidelines on identification. However, instead of targeted audits and monitoring, KDE continued to follow federal guidance, choosing districts at random for consolidated monitoring of all federal programs, and focusing on statewide issues and trends.

In 2012, the EPSB formed a task force to improve teacher preparation and certification; however, there was no consensus on recommendations.

Other areas in OEA's previous reports continue to be ongoing concerns. The percentage of Kentucky students identified as having disabilities requiring special education is higher than the national average for ages 3 through 5, though it has fallen in recent years. For other age groups, Kentucky's rates remain close to national rates. KDE attributes the drop in identification rates, in part, to new requirements using three tiers of interventions within the general education setting before referring students to be evaluated for special education. While this may be a better option for students, districts receive less special education funding and are provided no extra funding to support extra interventions conducted in general settings.

Program approval and certification processes have not been revised, so it is likely that special education teachers do not have all of the necessary content knowledge for all grades taught nor skills for all types of learning difficulties.

While some new and emerging issues have arisen, most are so new that full implications are not yet known.

In 2014, USED's monitoring of special education shifted focus from compliance only to both compliance and student outcomes. Even with this change, Kentucky continues to meet IDEA requirements. The new focus raises the importance of closing achievement gaps. OEA will present a full report on achievement gaps to the subcommittee this fall.

Ms. Landy said at least three notable changes relate to assessment and accommodations. First, in 2011, Kentucky discontinued two accommodations: the use of a reader during reading comprehension tests and the use of a calculator during non-calculator sections of math tests. These changes better align Kentucky's policies with those for the National Assessment of Educational Progress (NAEP), which may allow more students with disabilities to be able to participate in this assessment in the future.

Second, in 2015, the US Department of Justice said that students taking the ACT and SAT must be granted their usual accommodations and have their results reported in the same way as those of other students, hoping this will encourage more special education students to attend college.

The Every Student Succeeds Act (ESSA), passed in December 2016, set a one percent cap on use of the alternate assessment, which is designed for students with the most profound cognitive disabilities. Policymakers across the nation have raised concerns, but it will have no immediate affect for Kentucky, which is already under the one percent cap.

Legislation on bullying, physical restraint, and seclusion is relevant to special education because students with disabilities are more likely to be involved. Increased awareness might lead to an increase in reporting even if the actual number of occurrences does not change. On the other hand, Kentucky's implementation of positive behavioral interventions may reduce the number of incidents of bullying, restraint, and seclusion. OEA studying school safety and will present the report in the fall of 2017.

The USED is proposing new rules which would require all states to use a standard measure of racial or ethnic disproportionality in disciplinary actions and the identification of disabilities. Kentucky has an above-average percentage of districts with significant disproportionality in the percentages of African American students suspended, expelled, and identified as having emotional-behavioral disturbances.

The Dyslexia Task Force established this year will study dyslexia and develop recommendations on policy and personnel, and will outline the instructional and fiscal resources needed to identify and support students with dyslexia.

Ms. Landy discussed federal and state monitoring of Kentucky's special education programs. IDEA requires states to report data on many aspects of programs, including students, educational settings, personnel, how students exit special education programs, suspensions and expulsions, assessment participation and results, maintenance of fiscal effort, and early intervening services.

Regarding how Kentucky compares to the nation with respect to several measures that are collected in federal monitoring, Kentucky's special education students are more likely to be integrated into regular educational settings and assessments. Although the 3 through 5 age group has fewer special education teachers per student than average, the 6 through 21 age group has more teachers per student. Fewer formal written complaints and mediation requests were made on behalf of Kentucky's special education students. Even fewer special education students were suspended and expelled, and more graduated with a regular high school diploma. Finally, when the USED looked at all available information, it determined that Kentucky was among the half of the states that met IDEA requirements. Kentucky scored 100 percent on compliance and 75 percent on student outcomes.

Ms. Landy said that the report summarizes some specific issues emerging from federal and state monitoring. OEA analyzed data from state monitoring of formal written complaints; most of these are filed by parents but some are filed on behalf students by educators or others. Over the most recent three-year period, the number of complaints fell by almost half. This indicates improvements in programs and communications with parents. More research is needed to reach a conclusion, as the lower complaint rate could also reflect negatives, such as people becoming discouraged by responses to previous complaints.

KDE's audits of 26 elements in just over 400 IEPs found that most required elements were in place. The elements missing in about one out of four IEPs were evidence of consistent, significant adverse effects of the disability on the student's learning; annual goals that are measurable and tailored to the student's present level of functioning and achievement; and data on the student's progress toward those goals.

Ms. Landy said there is room for improvement in the percentage of students with disabilities who participate in the NAEP as well as the scores students achieve on the tests.

Ms. Landy said the report shows trends in the percentages of the population receiving special education. The 3 through 5 age group is where Kentucky is higher than the national average. In 2014, Kentucky's rate was ten percent compared to the national rate of six percent, which was lower from the higher 2005 percentage, when Kentucky's rate was more than double the national rate. Ms. Landy stated it would be difficult to be sure whether this represents over-identification by Kentucky or under-identification by other states. Regardless, even small differences in identification rates can have substantial implications for revenue, staffing, and expenditures. Ms. Landy said rates can reflect not only differences in the prevalence of disabilities but also other factors. For example, since the 1990s, Kentucky has offered free preschool for 3- and 4-year olds with disabilities. Kentucky has the 10th highest preschool enrollment for 3-year olds. Another possible factor might be Kentucky's slightly higher rate of low birthweights, which is associated with developmental delays.

The 6 through 21 age group rate slightly exceeded that of the nation for most years, but only by one percentage point at most. In 2014, it fell slightly below the national rate for the first time. In discussions with OEA, KDE attributed the declining rate to the implementation of response-to-intervention, the program that uses three tiers of increasingly intensive interventions to help students in the general education setting. Students are supposed to be referred for evaluation of a suspected disability only if those interventions do not help with their learning difficulties. This shows the variations among districts in the percentage of students identified as needing special education. As seen in the study, the identification rate ranges from a low of 6 percent in one district, to a high of 27 percent in two districts. Most districts are in the 12 to 16 percent range.

Ms. Landy said random variation is to be expected, especially in small districts where rates can change dramatically when students move in or out. However, a district's rate can also be affected by other things, such as the availability of qualified personnel to accurately evaluate students and the quality of a district's services can affect parents' decisions about where to live.

Kentucky regulations mention unusually high or low identification rates as a cause to audit a district. In 2015, 52 districts had rates over 15 percent, a level mentioned specifically in the regulation. The regulation doesn't provide a specific example of an unusually low rate; however, 29 districts averaging less than 12 percent were reviewed.

Comparing Kentucky to the nation for each category of disabilities and impairments reveals that Kentucky has above-average percentages of children ages 3 through 5 identified with speech-language impairments and developmental delays. Ms. Landy said better access to state-funded preschool may allow these difficulties to be identified and addressed more often than in many other states.

The same information for older students (ages 6 through 21) covers a broad age range and there may be variations within this range. The study illustrated that speech-language and developmental delays are identified at a lower rate than for the 3 through 5 age group, possibly because these issues were addressed for many students. For developmental delays, differences between age groups are also affected by differing definitions and practices. IDEA makes this category optional and restricts it to ages 3 through 9. Some states don't use the developmental delay category for students over age 5; however, students in Kentucky use this category for students ages 3 through 8.

Ms. Landy said looking at other categories, Kentucky has a lower identification rate for specific learning disabilities, which could be, in part, because school districts do not all have access to specialized personnel to carry out the rigorous tests required for this category. Possibly, some students with undiagnosed specific learning disabilities are in other categories where Kentucky has above average rates, such as developmental delay or intellectual impairments.

Autism is another category that has shown a rapid increase in diagnoses across the nation. It is still a smaller percentage of the total population than some other categories and Kentucky's rate is still below the national rate. However, in the past five years, Kentucky's count of children with autism increased from about 3,500 to about 6,300, which is a 79 percent increase. Again, differences and changes in identification rates often reflect not only differences in the prevalence of a disability but other factors, such as the availability of experts who can evaluate children.

Ms. Landy said that the OEA also identified personnel who can provide special education and related services. IDEA requires that states report the types and full-time equivalent number of employees and contractors that provide special education and related services. The report reviewed total personnel counts and calculated student-staff ratios.

Instructional staff are reported by the age group of students they serve. Unlike the 6 through 21 age group, schools rely more on instructional aides than on special education teachers for the 3 through 5 age group, which was found to be especially pronounced in some districts. Previous OEA reports suggested that such unusual levels of reliance on less-trained personnel might warrant a closer look to ensure students have the needed support.

OEA also looked at the reported full-time equivalent of employees and contractors providing related services. When reviewing the district level, many districts that did not report any data for some types of services. When a district reports no personnel of a given type for IDEA purposes, it does not always imply that there are none in the district. As an example, although over 80 percent of districts did not report a physical education (PE) teachers for IDEA purposes, it is known that all districts have PE teachers. Because most personnel serve all students, many of their activities should not be counted as special education related services. Still, many of these low counts indicate shortages. As mentioned in other meetings, special education cooperative directors report difficulty in finding enough speech therapists, physical therapists, psychologists, orientation and mobility specialists, and interpreters.

Ms. Landy said the report describes types of nonstandard certifications held by some teachers. Of course, the standard way to be certified is to complete a four-year college degree in education; pass the basic teacher exam; complete the teacher internship program; and pass exams for the content areas, grades, and student populations for which the teacher wants to be certified. However, to help ease the shortages of teachers, several types of temporary nonstandard certificates allow people teach while working on completing requirements for a permanent certificate.

Over time, a small but increasing percentage of special education teachers retain nonstandard certificates. The percentage rose from less than eight percent in 2012 to over 14 percent in 2016. At the same time, nonstandard certificates for other types of teachers have remained around one-half percent. Therefore, most growth was attributed to alternative routes to certification, whereby a person could obtain a temporary teaching certificate while working on teaching exams and completing an internship.

Many special education teachers are broadly certified for all grade levels (K - 12) and several types of disabilities. OEA's 2011 study looked at requirements of several teacher preparation programs and concluded that many do not ensure that special education teachers have the content knowledge to teach challenging content and the skills to help with all types of learning difficulties. This concern was also raised in OEA's 2009 math study.

To address this issue, the EPSB established a task force in 2012 to recommend revisions to its teacher preparation program approval and certification processes. However, according to EPSB, the task force seemed unclear about its objectives and ultimately did not come to a consensus to make recommendations.

Professional development is available through regional special education cooperatives but local leaders should ensure that staff take advantage of opportunities and develop a full range of skills.

Ms. Landy explained that most special education revenue comes from the SEEK exceptional child add-on, but districts also receive a substantial amount of federal IDEA funds. Additionally, schools may receive Medicaid funds for medical services provided in schools, as well as funding for any extra transportation costs.

Ms. Landy said revenue and expenses were almost equal in 2004. Both increased and peaked in 2010, when federal stimulus funds were available. Afterwards, revenue fell slightly and expenses leveled off. Throughout the period, expenses increased almost twice as fast as revenue, increasing by 59 percent while revenue grew by only 34 percent. Expenditure growth reflects increases in salaries, benefits, and transportation costs. The report provides revenue data for special education from both state and federal sources. Ms. Landy said that while districts have access to local funds to cover additional costs, some districts are able to collect more local funds than others.

In 2015, district variations confirm how much revenue is received for every dollar spent. On the low end, the more affluent districts received less than 75 cents in revenue for every dollar spent because they are able to spend general fund dollars. On the high end, less affluent districts received $1.25 or more in revenue for every dollar spent on special education. These variations possibly indicate disparities in the quantity and quality of services students receive.

Ms. Landy then went on to discuss student assessments, graduation rates, college and career readiness, and trends in national and state assessments. Every two years, the National Assessment of Educational Progress (NAEP) measures the reading and math proficiency of samples of 4th and 8th graders in every state. The report shows trends from 2009 through 2015. Ms. Landy advised that observers should view NAEP results with some caution because Kentucky has an above-average exclusion rate for students with disabilities, especially on reading tests. The most frequent reason for a student to be excluded is because the student's usual accommodations are not allowed by NAEP. Ms. Landy indicated that Kentucky's recent realignment of accommodation policies with those of national tests should lead to higher participation in the future.

Looking at the NAEP results, Kentucky's students with disabilities have higher proficiency rates in 4th and 8th grade reading and in 4th grade math, when compared to all students with disabilities in the nation. Eighth grade math proficiency was equal to the nation except in 2011, when it was lower. Kentucky's gaps between students with disabilities and all students were about the same as those of the nation. The exception was 8th grade math, where Kentucky's gaps were smaller but only because scores were lower for those without disabilities.

Ms. Landy explained that trends in graduation rates appear to be skewed because of changes in how graduation rates were calculated, but there is a general upward trend in graduation rates for students with disabilities. Kentucky's special education students have higher graduation rates than the national rate for special education students, however, a gap remains between special education students and others. Although Kentucky's graduation rates are encouraging, there remains a wide gap in college and career readiness between students with disabilities and all students. Moreover, while college readiness has increased, the gap has increased slightly each year, from 33 percent to 41 percent. Kentucky is one of the few states that measure college and career readiness.

Ms. Landy said the previous OEA study was completed five years ago, and efforts have been made to address the issues raised. With monitoring and improvement efforts, OEA expects students to be correctly identified as needing special education and related services, thereby ensuring that teachers have the knowledge and skills they need, helping districts identify which specialists students need, and finding ways to help districts provide more interventions in general education settings.

In explaining funding for special education, Ms. Landy said that the SEEK exceptional child add-on is the primary source of special education revenue for districts. Each district's SEEK special education funding is calculated based on the number of special education students reported by the district in each category. Each student identified is associated with an increase in revenue.

Ms. Landy said it is important to note that SEEK base funding is made up from both state and local revenue. The lowest wealth districts receive a far greater percentage of the SEEK exceptional child add-on from state funding than do the highest wealth districts. In the highest wealth districts, much of the SEEK exceptional child add-on is generated from local revenue.

In response to Chairman Wilson's question, Ms. Landy said exclusions address assessments for NAEP regarding students turning 22 in the middle of the school year. Ms. Landy said students with disabilities can attend school until they are 21, until their 22nd birthday. Ms. Landy said the regulations vary but as long as long as they turn 22 within the year, they are allowed to finish the school year. If the student turns "22" and "ages out of the system", they are not considered a graduate unless they completed a regular diploma within four years or they completed a regular diploma within five years if stated in the student's IEP. She confirmed that 24 percent of special needs students are not graduating. Ms. Landy said the goal set by NAEP is to include 85 percent of special education students and while the national average is 87 percent, Kentucky's students with disabilities have a graduation rate of 77 percent.

In response to a question by Representative Kay, Ms. Landy said revenues were lower when the stimulus money was no longer available. The exceptional child add-on has been the same since the 1990s. She said funding levels have also been affected by the percent of students identified for special education. The revenue went down partly because the number of students who are identified for special education has decreased over time. She said that the per pupil expenses leveled off because the number of special education students has decreased while costs have increased, due to teacher salaries, benefits, transportation costs and other expenses. Ms. Landy said one-fourth of funds come from federal money, roughly two-thirds from the SEEK exceptional child add-on, with the remaining coming from Medicaid services. Representative Kay suggested in the next budget cycle that these programs need to be looked at to see if the funding of these programs can be improved, thereby resulting in better outcomes.

In response to Senator Kerr's question, Ms. Landy said bullying, restraint, and seclusion are being addressed by the school safety study, which will be covered in more detail in a subsequent meeting.

Mr. Wickersham said that at the next meeting, OEA is expected to present the district data profiles and a two-year school safety study in collaboration with the KDE and the Kentucky Center for School Safety.

In response to Senator Kerr's question, Ms. Landy said the newly established Dyslexia Task Force will be conducting a study and offered to provide the committee with a member list of the task force.

In response to Senator Wilson's question, Ms. Landy said the IEP requirements are generally part of the audit process. She said that if there is more than one systemic non-compliance, they are provided with a CAP.

Mr. Wickersham said the department is also on a campaign of trying to improve guidance around the writing and implementation of IEPs, which specifically lays responsibility for both the implementation and the origin of the idea at the local district level, with KDE having an advisory role.

In response to Representative Graham's question, Ms. Landy explained that the reason for the number of children in special education between ages 3 through 5 (3.5 percent) and ages 6 through 21 (15 percent) could mean a student was misdiagnosed as special needs, but in actuality could be culturally deprived. She said the many factors can determine a misdiagnosis and there can be a lot of variation in the determination. Ms. Landy said if a student is identified as having a suspected disability, the student should be evaluated on an ongoing basis. She said there is an increasing awareness of differentiated instruction throughout the system. Ms. Landy said there is a huge range of student issues, from mild autism to much more severe developmental or speech disability, and reminded the subcommittee that Kentucky is one of the few states that offers state-funded preschool.

In response to Representative Graham's question, Ms. Landy said that there are 20 different certificates in the field of special education, which can vary in quality of teacher training. Special education certification is in the process of being reviewed. A certificate for K-12 special education requires learning a great deal of content knowledge. KDE will be able to provide criteria for earning these certifications.

On a motion by Representative Kay and a second by Senator Kerr, the Special Education Update 2016 report was accepted by voice vote.

On a motion by Senator Kerr, the meeting was adjourned at 11:15 a.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

August 16, 2016

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee was held on Tuesday, August 16, 2016, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Chris Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. Janice Tomes, Deputy State Budget Director; Mr. Ryan Barrow, Executive Director, Office of Financial Management; Ms. Jamie Johnson, Financial Analyst, Kentucky Infrastructure Authority; and Mr. Tony Yates, Project Manager, Finance and Administration Cabinet.

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

Approval of Minutes

Representative Rudy moved to approve the minutes of the July 19, 2016 meeting. The motion was seconded by Senator Girdler and approved by voice vote.

Correspondence Items

Mr. Nacey reported on two correspondence items. The first item was correspondence from Mary Vosevich, Vice President for Facilities Management, University of Kentucky (UK), regarding UK's decision to not proceed with the Alpha Gamma Rho Fraternity project as it had been proposed at the May 24, 2016 meeting. The committee did not approve that project and UK states in their correspondence that UK is reviewing other options for this project pursuant to the University's authorized capital items in the current budget.

The second item was correspondence from the committee to Secretary William M. Landrum III, Secretary, Finance and Administration Cabinet, regarding the committee's vote to table the appropriation increase for the Kentucky Center for the Arts Chiller Replacement project at the July 19, 2016 meeting until today's meeting.

Project Report from the Universities

Mr. Nacey reported on four purchases of medical equipment for the University of Kentucky in excess of $200,000. The first equipment purchase is for an Olympus FV1200 Confocal Microscope. This device will be useful in areas of metabolomics and drug development research to study cancer metabolism. UK's College of Pharmacy and the Center for Environmental and Systems Biochemistry will collaborate with the Markey Cancer Center to operate a National Institutes of Health Metabolism Center that will supply advanced analytical services to researchers in labs throughout the U.S. The microscope will be located at the Bio Pharm Complex. The cost is $252,405 and was paid in cash with restricted funds.

The second equipment purchase is for an Enhanced Confocal System Microscope and N-Sim/N-Storm Combination Super Resolution Microscope. This equipment will allow UK to perform modern microscopy with better resolution and speed. UK also believes that this equipment will enable the university to remain competitive for grant applications in basic biomedical, biological, and agricultural research. The equipment will be located at the Peter B. Bosomworth Health Sciences Research Building. The cost of the Enhanced Confocal Microscope is $495,071 and the Combination Super Resolution Microscope is $704,119. Both were paid in cash with restricted funds.

The third equipment purchase is for a Water Gas Shift Reactor and Fischer-Tropsch Synthesis Units. This equipment will satisfy capital requirements for UK's existing Coal/Biomass-to-Liquids facility which will provide for a functional mini-refinery. The cost of the equipment is $2,125,042 and was paid in cash with federal funds.

The final equipment purchase is for a Wintersteiger Delta Plot Combine. This device will be used by the College of Agriculture, Department of Plant and Soil Sciences, to increase efficiency of soybean research and provide accurate harvest efficiency for the Soybean Variety Trials Program. The device will provide data to assist farmers in selecting the optimum soybean seeds for their region of the state. The plot combine costs $268,807 to be paid in cash with $100,000 in UK restricted funds and $168,807 in gift funds provided by

U.S. seed companies. No action was required.

Lease Reports from Finance and Administration Cabinet

Mr. Scott Aubrey, Director, Finance and Administration Cabinet, reported on two items. The first item is a lease renewal for the Unified Prosecutorial System, exceeding $100,000, located in Jefferson County. This lease is being renewed under the same terms and conditions at $16.55 cents per sq. ft. for 18,963 sq. ft. of office space. The lease will expire June 30, 2017. Senator McDaniel moved to approve the lease renewal, seconded by Senator Humphries. The motion passed by a roll call vote of 5 yeas, 0 nays.

The second item is a lease renewal for the Cabinet for Health and Family Services, exceeding $100,000, located in Montgomery County. This lease is being renewed under the same terms and conditions at $13.50 per sq. ft. for 9,656 sq. ft. of office space. The lease will expire June 30, 2017. Representative Rudy moved to approve the lease renewal, seconded by Senator McDaniel. The motion passed by a roll call vote of 5 yeas, 0 nays.

Project Report from the Finance and Administration Cabinet

Ms. Janice Tomes, Deputy State Budget Director, reported on one project from the Finance and Administration Cabinet. This project is being brought back in front of the committee for an appropriation increase for the Kentucky Center for the Arts (KCA), Chiller Replacement, in Jefferson County. Pursuant to KRS 45.760(7), the Secretary of Finance and Administration has amended this project approval amount to $2,757,800, for a total restricted fund appropriation increase of $250,300, and will replace the existing chillers at KCA. This project will be funded with a grant awarded by Louisville-Jefferson County Metro Government (Metro Government) in the amount of $2,507,500, KCA's 2014-2016 Maintenance Pool in the amount of $71,400, and with the remaining balance of $178,900 coming from KCA's agency funds. The original appropriation was approved in December 2015 with 100 percent of private funds coming from Metro Government. After receiving bids, the appropriation must be amended in order to award the contracts.

Senator McDaniel said that, according to the information given to the committee, which included the chiller project, actual bids, and cost, there was a change in scope from two rebuilds to one rebuild and replace. Senator McDaniel further said that it appeared that, in order to make this balance, a contingency line was added, and the designs fees were deleted, $222,500 was taken out, and the balance of the differences were placed in contingencies so the scope amount could be increased. Senator McDaniel said that it appears that someone fudged the estimate in order to make the numbers fit. Senator McDaniel said that his concern at this time is about more than the appropriation increase for the project and asked Finance to comment on his concerns. Mr. Tony Yates, Project Manager, Finance and Administration Cabinet, said that design fees are always included in the estimate. The only thing that had changed was the decision was made to replace one of the chillers and the rest of the project involved replacing the original air handlers inside the KCA. Senator McDaniel said that from looking at the spreadsheet and information dated August 2, 2016 and provided to the committee, there were mechanical engineer and design fees, preliminary scope, and an original estimate of $222,500. Senator McDaniel further said that before the bid estimate, these items have been taken out. Mr. Yates said that he was unsure as to why it was done this way as the design fees are always included in the bid process.

In response to several more questions from Senator McDaniel, Mr. Yates said that the change order for the chiller rebuild resulted from the discovery of problems with the chiller due to one of the thermostats not working and some wiring needed to be replaced which amounted to $900. Mr. Yates said that this amount was not included in the bid. Mr. Yates further stated that additional shut-off valves were installed and the types of valves were changed at the request of KCA. Mr. Yates said that Bid Pack 1 is complete except for some punch lists items on the installation. Senator McDaniel said that in February 2016, there was an estimated contingency of $147,000 and currently that amount is $50,000. In response to Senator McDaniel's' questions regarding the amount of the work that remains to be completed, Mr. Yates said that the installation of the air handling units, Bid Pack 2, was just recently bid. Mr. Yates said that, if the committee approves this appropriation increase for the project, he feels certain the project will be completed for the amended amount of $2,757,800.

In response to several more questions from Senator McDaniel, Ms. Tomes said that the funds for the scope increase are coming from KCA restricted funds which are generated by ticket sales proceeds and from the Miscellaneous Pool Fund 2014-2016 Budget which is specifically for the KCA.

Senator McDaniel said that he thinks the overall procedures for estimating could be updated and also stated that it is bothersome when costs are shifted to adjust numbers with existing monies in order to make these types of projects work, along with making upgrades that were not included in the original bid process. Senator McDaniel concluded by saying that, while he appreciates the KCA's efforts to stay within their existing funds, he feels that more accuracy of the process is needed as the committee appropriately monitors these projects and the flow of the requested funds.

Senator McDaniel moved to approve the scope increase for the KCA chiller replacement project, seconded by Senator Humphries.

Senator Girdler asked to explain his vote and said that he commended Senator McDaniel for bringing concerns to the table that many of the members of the committee have. Senator Girdler further said that he believes the numbers lack clarity and that a better and more defined process is needed. The motion failed to pass by a roll call vote of 4 yeas, 1 nay.

Report from the Office of Financial Management

Ms. Jami Johnson, Financial Analyst, Kentucky Infrastructure Authority (KIA), reported on seven items. The first item was for a Fund A loan for the City of Pineville f/b/o Pineville Utility Commission in Bell County. The request was for $533,485 for the Phase I of the Virginia Avenue Utility Replacement project. The loan will have a 20 year term, an interest rate of 0.75 percent and an annual estimated debt service payment of $20,889.

The second item was for a Fund A loan for the City of Hazard in Perry County. The request was for $100,000 for the Sanitary Trunk Rehabilitation Replacement project. The loan will have a 20 year term, an interest rate of 1.75 percent and an annual estimated debt service payment of $67,623.

The third item was for a Fund A loan for the Harrison County Sanitation District in Harrison County. The request was for $1,567,885 for the Northside Sewer Extension and for the Cedarbrook Replacement project. The loan will have a 30 year term, an interest rate of 0.75 percent and an estimated annual payment of $49,934.

The fourth item was for a Fund A planning and design loan for the City of Marion in Crittenden County. The request was for $587,200 for the New Wastewater Treatment Plant project. The loan will have a 5 year term, an interest rate of 2.75 percent and an annual payment of $127,678.

The Fund A loan items were considered as one roll call vote. Representative Rudy moved to approve the Fund A loan items. The motion was seconded by Senator Girdler.

Senator McDaniel asked to explain his vote and said he would like for KIA to explain how they will ensure adequate cash flow in situations in which customers of the current failing plants were being charged a flat rate and the utility had a monthly collection rate of about 50 to 60 percent. Lastly, Senator McDaniel said that it is his hope that the failing plants will improve upon that issue. The motion passed by a roll call vote of 5 yeas, 0 nays.

The fifth item was for a Fund B loan for the City of Hustonville in Lincoln County. The request was for $75,639 for the Water System Improvements project. The loan will have a 20 year term, an annual interest rate of $1.75 percent and an annual payment of $4,650. Senator Humphries moved to approve the Fund B loan, seconded by Senator Girdler. The motion passed by a roll call vote of 5 yeas, 0 nays.

The sixth item was for a Fund F loan for the Cave Run Water Commission in Menifee County. The request was for $700,000 for the Systems Improvement project. The loan will have a 20 year term, an annual interest rate of 0.75 percent and an annual payment of $39,506.

The final item was for a Fund F loan for the City of Evarts in Harlan County. The request was for $275,000 for the Water Supply Well and Treatment Plant Refurbishing project. The loan will have a 20 year term, an annual interest rate of 0.75 percent and an annual payment of $11,640.

The Fund F loan items were considered as one roll call vote. Senator McDaniel moved to approve the Fund F loan items, seconded by Senator Girdler. The motion passed by a roll call vote of 5 yeas, 0 nays.

Report from the Office of Financial Management

Mr. Ryan Barrow, Executive Director, Office of Financial Management (OFM) reported on two items. The first item was the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds, Series 2016. Proceeds from this bond issue will finance the acquisition, rehabilitation, and equipping of the Arcadia Apartments project, a 432 unit property in Louisville. As a conduit issuer, the Commonwealth is not responsible for its repayment, which is explicitly stated in the offering documents. The anticipated net proceeds of the bond issue is for approximately $20,000,000.

In response from a question from Senator McDaniel, Mr. Barrow said that the benefits of these federal and state government grants to developers is that they incentivize multifamily housing through tax-exempt borrowing; however, the federal government has specific requirements for allowing municipalities to do so such as eminent domain, the policing, and the taxing powers.

In response to several more questions from Senator McDaniel, Mr. Barrow said this benefit is set by federal and state statutes and that, ultimately, it is the individual developer that assumes responsibility for repayment. Mr. Barrow said that this process includes a review by KHC as to the program criteria and by OFM who reviews the process to include all private activities in order to ensure that there are limits on the amount of these bonds that can be issued for the developer. Mr. Barrow further said that OFM monitors the appropriate use of the funds and ensures that there is no extension of Commonwealth credit; these bonds are completely developer financed and all debt service is on the developer's book and that debt service is paid by them.

In response to questions from Representative Harris, Mr. Barrow said that 99 percent of these issues are pure conduit bond transactions; if the due diligence is conducted properly and legally, there should be no accountability to the municipalities or other entities that serves as conduits. Senator McDaniel moved to approve the bond issue, seconded by Representative Rudy. The motion passed by a roll call vote of 5 yeas, 0 nays.

The final item was the Kentucky Housing Corporation Multifamily Housing Revenue Bonds, Series 2016. Proceeds from this bond issue will finance the acquisition, rehabilitation, and equipping of a multifamily residential rental facility containing 184 units located at 3703 West Wheatmore Drive, Louisville. As a conduit issuer, the Commonwealth is not responsible for its repayment, which is explicitly stated in the offering documents. This bond issue will have a term of 24 months, an interest rate of 0.95 percent and par amount of $9,000,000. The final maturity date will be July 1, 2018. No action was required.

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

Mr. Ryan Barrow reported on twelve (12) school bond issues with SFCC debt service participation. Three issues will finance school renovation or constructions and the remaining nine will refinance previous bond issues. There were no local tax increases associated with these projects. Senator McDaniel moved to approve the school bond issues, seconded by Senator Humphries. The motion passed by a roll call vote of 5 yeas, 0 nays.

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

Mr. Nacey said that one local school bond issue was reported to the committee. The bonds issued by the Scott County District will be used to refinance Series 2008 bonds. No tax increases were involved. No action was required on this item.

Debt Issuance Calendar

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

Discussion Item

Representative Harris said the last item on the agenda would be a discussion on the Louisville Arena Authority (LAA) funding process evaluation which the members asked to be placed on the agenda for the August meeting during the July meeting. Representative Harris said that, due to the confluence of events since last year such as the legislative session and the appointment of two new co-chairs to this committee, the committee staff thought it would be best to bring this issue back to the forefront for a renewed discussion; however, one of the main members of this committee who has pushed for this discussion is Representative Wayne from Louisville, and he was unable to attend this committee meeting or the next committee meeting. Representative Harris said that Representative Wayne has asked that any action taken by the committee be delayed until the October meeting when he is able to be present; Representative Wayne also wanted the members to proceed with particular matters of concern or interest. Representative Harris deferred to Mr. Nacey for additional comments and to provide historical background information to the committee.

Mr. Nacey said that in the summer of 2013, it was discovered that an agreement was reached between the LAA and the Kentucky State Fair Board (KSFB) in which it appeared as though KSFB had forgiven about $7 million dollars in reimbursement owed to it by the LAA. In September 2013, the KSFB and LAA officials were present at that month's committee meeting to address the committees' concerns. The KSFB stated that the bond indenture requires that the LAA operating fund, reserve account, and debt service be funded prior to the negative impact reimbursement to the KSFB. If funding is available, the reimbursement will be made to the KSFB after January 2014.

Mr. Nacey said that in the months that followed, committee staff continued to look into the matter. In early 2014, the office of the Auditor of Public Accounts (APA) performed a risk assessment of the situation and submitted a summary of their preliminary findings. While not finding any apparent problems, the APA was unable to fully address any conflicts of interests without further information in order to determine what expanded procedures would be needed. In April 2014, the KSFB submitted to the committee its calculation of the net-negative impact which totaled $7,471,391. In May 2014, the LAA responded to the KSFB by denying any obligation to reimburse KSFB for the net-negative impact.

Mr. Nacey further said that in July of 2014, the committee sent a written request to the Attorney General's office (AG) seeking a legal opinion over whether the LAA is obligated to pay the KSFB for the net-negative impact, whether conflicts of interest have or did exist among the membership of the Authority, and whether the reduction in the TIF district size was legal. The AG responded in April 2015 with an informal opinion which stated the LAA was not obligated to repay the net-negative impact and that the reduction of the TIF district size was legal. The AG did not, however, have enough information with which to address the potential conflicts of interest.

Lastly, Mr. Nacey said that at the April 2015 committee meeting, the committee voted to seek LRC approval to spend funds to hire an independent consultant to evaluate the funding processes of the LAA. The LRC approved the request at its June 2015 meeting. Subsequently, a Request for Proposal (RFP) was released and responses were due in December 2015. Mr. Nacey said that only one firm responded to the RFP and no further action has been taken by the LRC.

Senator McDaniel and Representative Harris agreed that the committee would wait until Representative Wayne could be present for any action taken by the committee on the LAA discussion item. Further, both Senator McDaniel and Representative Harris agreed that the committee should make a decision soon on proceeding with the LAA item due to the amount of money involved which could result in an additional burden to the Commonwealth. Representative Harris said that, unless there is further discussion, the committee will address this issue when Representative Wayne is present at the October meeting. Hearing none, Representative Rudy moved to adjourn the meeting, seconded by Senator McDaniel. The motion was approved by voice vote, and the meeting was adjourned at 1:49 p.m.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

August 17, 2016

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Tuesday, August 23, 2016, at 1:00 PM, in Room 129 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; Senators Dan “Malano” Seum and Morgan McGarvey; Representatives Robert Benvenuti III and Joni L. Jenkins.

Guests: Adam Meier, Deputy Chief of Staff for Policy, Office of the Governor; Vickie Yates Brown Glisson, Secretary, Cabinet for Health & Family Services; Stephen P. Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Brandon Carlson, Office of Administrative & Technology Services, Cabinet for Health & Family Services; Lesa Dennis, Division Director, Department for Community Based Services, Cabinet for Health and Family Services; Wayne Johnson, Kentucky Association of Health Care Facilities; Sharon Netherton, Kentucky Association of Health Care Facilities; Michael Wright, Kentucky Office of the Attorney General, Medicaid Fraud Control Unit; Cara Stewart, Kentucky Equal Justice Center; Sarah Nicholson, Kentucky Hospital Association; and Scott Wegenast, AARP Kentucky.

LRC Staff: Jonathan Scott, Ben Payne, and Becky Lancaster.

Discussion on Section 1115 Waiver Application Proposal - Kentucky Helping to Engage and Achieve Long Term Health (HEALTH)

Vickie Yates Brown Glisson, Secretary, Cabinet for Health & Family Services, stated there has been three public hearings regarding the Section 1115 Waiver Application Proposal - Kentucky Helping to Engage and Achieve Long Term Health (HEALTH). Meetings were held in Bowling Green, Frankfort, and Hazard. The waiver comment period was extended until August 14, 2016. The cabinet is taking those comments and working to revise the waiver. The waiver will allow the state to preserve Medicaid expansion.

Stephen Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated approximately 1.4 million or one-third of Kentuckians are now on Medicaid. Medicaid enrollment is up approximately 500,000 people since Medicaid expansion began on January 1, 2014. From January 1, 2017 to January 1, 2021, Kentucky will have to pay approximately $1.2 billion for the Medicaid expansion. The unsustainable growth in the cost of the Medicaid expansion threatens the traditional Medicaid program. The cost increase begins at 5 percent in 2017 and graduates to 20 percent in 2021, which is estimated to be $400 million in 2021 alone. The Medicaid budget was increased by 20 percent for the next two years to maintain current benefits. The current budget estimates new state revenue to be $585 million, however Medicaid’s budget was increased to $587 million concluding that every new dollar coming into the state would be consumed by Medicaid. A report from Milliman ranks Kentucky as first in profitability for Medicaid managed care in 2015. There was a sizeable difference from the national average profit of 2.6 percent to Kentucky’s average profit of 11.3 percent.

Secretary Glisson stated Kentucky leads the nation for obesity, smoking, and cancer deaths. Kentucky has a high poverty level, and 20 percent of Kentuckians live in poverty. Kentucky is facing a substance use disorder (SUD) epidemic. The waiver would preserve all mental health and SUD benefits. The Centers for Disease Control and Prevention (CDC) recently identified 220 counties in the nation, 54 located in Kentucky, that are at risk for a related HIV or hepatitis C outbreak resulting from intravenous drug use.

The Cabinet for Health and Family Services has proposed a Medicaid transformation plan using a four-prong approach. The first prong is the Section 1115 Kentucky HEALTH waiver, a 5-year waiver or pilot program that is specific to Kentucky’s need for Medicaid expansion. The second prong is to address SUD delivery system improvements. The third prong is to focus on chronic disease management to allow people to be healthier and more productive. The fourth prong is Managed Care Reform to concentrate on improving Managed Care Organizations (MCOs) contracts and using more available resources.

Adam Meier, Deputy Chief of Staff for Policy, Office of the Governor, stated the goal of the waiver is to improve participants’ health and help them to be responsible for their health coverage. The cabinet recognizes that teaching Medicaid members how to use commercial insurance is very important. The cabinet hopes to empower people to seek employment and transition to commercial health insurance coverage. The waiver targets able-bodied adults, not the aged, blind, or disabled. The benefits of the waiver were modeled after the Kentucky State Employees’ health plan benefits. There are two paths to coverage: the employer premium assistance program option and the consumer driven health plan option. Premiums are in lieu of copayments. Premiums range from $1.00 to $15.00 per month depending on the member’s federal poverty status. After two years on the waiver, cost sharing will increase for individuals above the 100 percent federal poverty level (FPL). There will be an open enrollment period. If beneficiaries do not return re-enrollment paper work during the specified time period, they must wait 6 months for next open enrollment period. Members select a managed care plan at enrollment and must maintain that plan choice for the entire 12 month period. The waiver includes non-payment penalties. Individuals may re-enroll earlier than six months by paying two months of missed premiums and a one month premium, and also completing a health or financial literacy course. The waiver states there will not be retroactive benefits.

Secretary Glisson stated in July of 2015, the Centers for Medicare and Medicaid Services

(CMS) outlined a new Section 1115 waiver that would allow states to obtain a waiver of the Institutions for Mental Disease (IMD) exclusion and require states to develop a comprehensive program to reform SUD delivery and services. Kentucky will develop an SUD pilot program in 10 to 20 select high-risk counties based on a recent CDC HIV and hepatitis C outbreak study, the existing Shaping Our Appalachian Region (SOAR) initiative, and public input.

The waiver will help improve management of chronic diseases such as cancer, heart disease, stroke, and diabetes. The waiver would utilize existing resources to support efforts in improving disease prevention and management. The cabinet wants to coordinate and align the Kentucky Department for Public Health, local health departments, and MCOs to better address the issues of chronic disease.

Commissioner Miller stated MCOs contract reforms started on July 1, 2016. The contracts strengthened medical loss ratio (MLR) to require more spending on direct beneficiary medical care. The current budget was premised on a 4 percent increase, however through contract negotiations the state anticipates 4 percent deductions. The waiver is expected to save tax payers $2.23 billion dollars over a five year period; the state portion saved is $331 million.

In response to questions from Representative Benvenuti, Mr. Meier stated people who voluntarily decide not to work to get free health care benefits are a serious concern. Four out of ten Kentuckians are not in the workforce. The waiver provides people with tools and incentives to be engaged in their community and employer. The cabinet for Health and Family Services wants to build programs to make people more employable. Commissioner Miller stated that, in previous contracts, the MLR required at least 85 percent of every dollar of premiums to be spent on medical related items. The current contracts have changed the MLR to 90 percent.

In response to questions from Representative Jenkins, Mr. Meier stated actuaries have projected that more than 200,000 people in the expanded Medicaid population are full or part-time workers. Requirements for Supplemental Nutritional Assistance Program (SNAP) are federally mandated. The Section 1115 Kentucky HEALTH waiver would be a pilot program that is drafted county by county. Through the implementation phase, the cabinet would be building partnerships with non-profit agencies, county and local governments, state and local parks, and the Transportation Cabinet to easily identify opportunities to meet the community engagement requirement. Mr. Meier has met with the Kentucky Nonprofit Association regarding taking on additional volunteers and possible volunteer background checks. The cabinet is looking at software and applications that will track and identify the best opportunity to volunteer for each individual.

In response to questions from Senator McGarvey, Commissioner Miller stated the budget, starting on July 1, 2016, established state funding for Medicaid for the two year budget period would increase to $587 million. However, in the same two year budget period, the budget was predicated on $585 million as increased tax revenue in the general fund. Other areas such as pension, education and corrections would be crowded out of future budgets and that all new dollars coming into the state would go to Medicaid. Secretary Glisson stated, that numbers show that the current Medicaid expansion does not pay for itself and health outcomes have not improved despite additional funding. The cabinet's goal is to spend the money allocated to Medicaid expansion more effectively and improving health outcomes. There is a much larger payment for Medicaid that will start in 2017 and increase until 2020. Secretary Glisson stated the cost of the administration of Medicaid expansion is reimbursed at a 50/50 rate not at the previously assumed rate of 90/10, not improving the administration cost burden.

In response to questions from Senator Alvarado, Mr. Meier stated if someone becomes ill, has a sustained injury, or is hospitalized, he or she will be qualified as medically frail. The member's doctor could initiate the MCOs to declare the patient as medically frail. The cabinet is working with the SOAR initiative to coordinate programs in eastern Kentucky. The cabinet has discussed reducing the number of MCOs used by the State to help reduce MCOs profitability. Secretary Glisson stated the cabinet wants to better align local and state health departments to help educate the public of the resources available in all 120 counties of Kentucky. Mr. Meier stated programs in public health departments are underutilized by Medicaid members and the waiver will help incentivize members to use these programs.

In response to questions from Representative Jenkins, Secretary Glisson stated some hospitals use their own system of triage to defer non-emergency cases from their emergency room. It is not within the waiver to incentivize hospitals to route patients from the emergency room to nearby clinics or urgent treatment centers. The waiver will incentivize members to use the emergency room correctly. The waiver will also penalize the member for using the emergency room for a non-emergency purposes. Mr. Meier stated the cabinet is looking at best practices in other states to find ideas for implementing this change.

Update on Benefind

Brandon Carlson, Office of Administrative & Technology Services, Cabinet for Health & Family Services, stated the cabinet is committed to using every resource to make the Benefind system work. In 2012, Benefind became an extension of the Health Benefit Exchange (HBE) requested and approved by the previous administration. Kynect and Benefind are two releases of the five release plan. Benefind is a single system for economic stability programs such as Supplemental Nutritional Assistance Program (SNAP), Kentucky Transitional Assistance Program (KTAP), Medicaid and Waiver services. Benefind has enabled the Commonwealth to bring systems into compliance with federal regulations. Pre-rollout releases started in August of 2013, and kynect was released in June of 2014.

The Benefind release was postponed on December 4, 2015 because the cabinet did not want to conflict with open enrollment dates. Benefind was also delayed on December 28, 2015, because the cabinet administration determined the Benefind system was not ready to be released. Benefind was released on February 29, 2015. The cabinet's administration was given assurances that the system was ready from the contractor. In addition, the federal government directed state leadership to "go live" with Benefind. As of December 2015, an investment of $70 million of federal match funds was spent on Benefind release five. Each month the Benefind rollout was delayed, it cost an additional $1.7 million to keep contractors working on the program. Through feedback from Kentucky communities, help-line phone calls, and individual members, the cabinet became aware of large issues with Benefind between February 29, 2016 and March 3, 2016.

One large issue was that incorrect notifications were mailed to members. User acceptance testing (UAT) testing needed more involvement of business analysts in test scenario planning and for correspondence generation. All notifications to members were stopped on March 23, 2016. The cabinet established a rapid response team to quickly respond to cases that required immediate action. On April 25, 2015 Operation Field to Frankfort (O.F.F) was created to clear a backlog of more than 50,000 cases. By May 31, 2016, notifications were reviewed, turned back on, and sent to members if necessary. The cabinet would like to establish a permanent centralized processing facility to harness the operational flexibility and abilities of 64 dedicated employee processors by October 31, 2016.

The Benefind release did not include a feasible roll back or contingency plan. By the time the scope and magnitude of the systematic issues were fully identified, the contingency plan - to revert back to the Kentucky Automated Management Eligibility System (KAMES) - was not feasible to implement. However, Benefind did provide the ability for workers to do a system override for emergency cases. In addition, CMS and Food and Nutrition Services (FNS) policies contradicted each other in the integrated system, and did not properly allow utilization of kynectors. The cabinet requested and received approval from FNS for kynectors affiliated with non-profits to assist with SNAP applications.

Training would have been more effective with a proficiency test. Proficiency thresholds and timeframes will be established and verified prior to any future system roll-outs. The pilot project was insufficient and was not fully representative of local offices. The pilot project was only in 10 of 120 counties. Future pilot programs will incorporate all special populations and geographic areas. Small populations saw a disproportionate volume of errors during roll-out. Department for Community Based Services (DCBS) has been working with community partners such as Kentucky Center for Equal Justice, Kentucky Association of Health Care Facilities, Kentucky Refugee Ministries, and Catholic Charities to ensure the cabinet is addressing citizens' concerns, while implementing changes to the organizational processes in order to better serve the citizens.

Currently, the cabinet has worked through more than 50,000 backlogged cases and applications, responded to more than 1000 cases that escalated to the rapid response team, decreased call wait time from over 49 minutes to 20 minutes, and reviewed all system generated correspondence templates. The cabinet plans to conduct consistent reviews of system operations to confirm positive trends and fewer defects that impact member service or caseworker productivity.

In response to questions from Representative Jenkins, Mr. Carlson stated long-term care cases are more difficult to process and sometime have a longer phone waiting period. The cabinet is working to move from a state model to a more localized model system to easier navigate the issues of long-term care.

Lesa Dennis, Division Director, Department for Community Based Services, Cabinet for Health and Family Services, stated the cabinet has recognized the need to redirect long term care back to the local office. The cabinet has identified a contact, a back-up contact, and supervisors of primary contacts for each local DCBS office. Those contact names were given to each nursing facility so that they can email DCBS with questions or set up an appointment in a local DCBS office.

Stephen Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated the cabinet has met and will continue to meet with long-term care providers in efforts to implement a formal examination and re-design of the DCBS workflow and associated organizations.

Mr. Carlson stated the cabinet is currently operationally caught up but a centralized processing facility is needed to maintain that balance. The centralized processing facility will allow the cabinet to devote a specific workforce to strictly working cases and inputting data.

In response to questions from Senator Alvarado, Commissioner Miller stated there has been some discussion regarding interim payments to long term care facilities to help with the backlog of payments due to these facilities. Commissioner Miller stated when everything pays correctly, the State will spend approximately $80 million a month to long term care providers.

Adjournment

There being no further business, the meeting was adjourned at 2:52 p.m.

FREE-ROAMING HORSE TASK FORCE

Minutes of the 1st Meeting of the 2016 Interim

August 23, 2016

Call to Order

The 1st meeting of the Free-Roaming Horse Task Force was held on Tuesday, August 23, 2016, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Fitz Steele, Co-Chair; Senator Robin L. Webb; Representatives David Hale and John Short; Bill Bissett, Phillip Brown, Ginny Grulke, Steve Hohmann, David Ledford, Dan Mosley, Lori Redmon, Robert Stout, and Karen Waldrop.

Guests: Karen Gustin, Executive Director, Kentucky Equine Humane Center; Patricia Cooksey, Assistant Director, Kentucky Breeders' Incentive Fund, Kentucky Horse Racing Commission; Jonathan Lang, Deputy Executive Director, Kentucky Horse Park

LRC Staff: John Ryan, Tanya Monsanto, Jasmine Williams, and Becky Lancaster.

Overview of Issues Relating to Free-Roaming Horses

Karen Gustin, Executive Director, Kentucky Equine Humane Center (KyEHC), stated that, when a coal mine completes its operation at a mine, it revegetates the land to mitigate for resource impact. Often those areas may be the only flat places in eastern Kentucky. Horse owners may turn horses out onto the reclaimed mine land during the summer to graze on flat land. Before winter, the owners bring the horses back to their land. This has been a very accepted practice. However, when the economy started its downturn in 2008, many horse owners left their horses on the land permanently because they were no longer able to care for or pay for them.

There are three categories of horses that are on the mine sites: domesticated, feral, and wild. Domesticated horses are owned, ridden, and cared for by their owners. Feral horses were domesticated at one time but have been turned out and left on the mine site. Wild horses are born in the wild and may never see people. KyEHC got involved with these horses in the winter of 2012. A group of horses in Knott County were in the roadways, causing a public safety hazard. Knott County Animal Control Department gathered 27 horses and asked for help from KyEHC and Kentucky Humane Society (KHS) to rehome and manage the horses. All of the horses were cared for by the end of the 90-day hold period.

There are many humane organizations involved with the free-roaming horses of eastern Kentucky: Kentucky Equine Humane Center, Kentucky Humane Society, American Society for the Prevention of Cruelty to Animals (ASPCA), Kentucky Horse Council (KHC), Almost Home pet shelter, Dumas Rescue, and county animal control offices. KyEHC is one of the largest all-breed horse rescues in Kentucky. KyEHC takes in horses that are abused, neglected, abandoned, or owner surrendered.

Many people and organizations in eastern Kentucky are concerned about the horses on the reclaimed mine sites. There are three main issues: public safety, health and welfare of the horses, and over-population of horses on mine sites. Stallions are being turned out onto the mine sites and are reproducing at a high rate. Approximately 70 to 80 percent of the mares in eastern Kentucky on mine sites are in foal or pregnant. When KyEHC acquires a horse, it is immediately examined by a veterinarian and wormed, and receives vaccinations and a plan of treatment or action for its care. Salt blocks are dropped at the mine sites in the winter. Horses are starved for the salt supplement and often fight and kick to get to the salt.

One challenge is to find out if someone owns a horse on the mine sites. Owners do not want to be identified because of liability issues if a horse causes damage or injury. KyEHC has tried to get to know the people and owners in eastern Kentucky by letting them know they are there for the welfare of the horses not to prosecute owners. Many of the free-roaming horses make great candidates for adoption and trail riding horses. In the last three years, KHS has handled approximately 20 horses. KyEHC has taken in 43 horses from eastern Kentucky that were abandoned on mine sites; 13 horses were owner-surrendered and 30 were received through county animal control departments.

KyEHC has joined with the ASPCA and the KHC in organizing four geld and wellness clinics in eastern Kentucky. They have concentrated their efforts to the Langley, Hazard, and Prestonsburg area. The four mobile or stationery clinics have serviced over 100 horses. Services provided at the clinic are castration, vaccination, worming, and dental floating. KyEHC also partners with other organizations to provide veterinary care with the eventual goal of adoption. Clinic funding is provided by KyEHC, KHS, ASPCA, KHC, private donors, veterinary discounts, Eastern Kentucky County Animal Control, Almost Home pet shelter, and Dumas Rescue.

In response to questions from Steve Hohmann, Ms. Gustin stated there is no estimate on how many horses are free-roaming in eastern Kentucky. Eastern Kentucky University (EKU) is conducting a research project to get a count of all the free-roaming horses in Eastern Kentucky. It is the hope of KyEHC that, through the grant program, EKU students will be able to do aerial surveys to count the horses.

In response to a question from Senator Carpenter, Ms. Gustin stated the issue of free-roaming horses impacts approximately ten counties.

In response to a question from Representative Steele, Ms. Gustin stated the pictures in her presentation were taken in the Plant Ridge and South Fork areas of Breathitt County.

Ginny Grulke, Executive Director, Appalachian Horse Center (AHC) testified the size and population of free-roaming horses in eastern Kentucky has changed. Now that stallions are also being turned out and abandoned, a herd of mares can double its population in four years. The involvement of the horse owners in eastern Kentucky would help to create the best solution to this issue. AHC started from a coalition of people that recognized Kentucky should look at the free-roaming horses as an asset to the state instead of a liability. There are many jobs in central Kentucky for and regarding horses, and AHC hopes to bring those and other jobs to the eastern Kentucky area. The AHC will offer horse tours, hands-on horse activities, and trail rides to tourists.

Revenue from the AHC will cover operating costs and pay for additional community services such as equine therapy for people with special needs, substance abuse programs, host 4-H clubs, and provide field experience for veterinarian technical college students. Another goal of the AHC is have an equine entrepreneurial institute that would bring people in the equine business together to discuss pros and cons of horse related businesses, the capital needed, and other issues related to starting an equine related business.

AHC looked at existing tourist opportunities in other states to show that the AHC would be a profitable venture. The Chincoteague Ponies swim event in Virginia brings in an average of 100,000 people for two days in July every year. People come to the see the ponies swim the Assateague Channel and to auction or purchase foals with at an average of $2,500 each foal. In South Dakota, tourists pay $75-$150 each to travel in a van with a guide to see wild mustangs. In the Bahamas, people see wild, free-roaming pigs. Eastern Kentucky has people who need jobs, love horses, and are hospitable to visitors. AHC wants to capitalize on the existing equine industry, free-roaming horses, and beautiful natural resources of eastern Kentucky.

The AHC selected a site in Breathitt County, in the South Fork area, to build the complex. A landowner has donated 100 acres to AHC. AHC estimates they will have 100,000 visitors per year by the fifth year of business. AHC did a break-even analysis and noted that 28,240 visitors will be necessary for the center to break even and pay expenses each year. Kentucky has been reacting to the problems of free-roaming horses, but if it is proactive and manages the horses, the practice of free-roaming horses can remain in place.

Discussion of Possible Solutions: Legislative/Non-Legislative Recommendations, Task Force Goals, and Objectives

Lori Redmon, President and CEO, Kentucky Humane Society (KHS) stated she has worked on the issue of free-roaming horses for three years. She has listened, researched, and conducted interviews with many people, including state legislators and local horse owners, to better understand the situation and find solutions for the free-roaming horses. One challenge is that the environment cannot sustain the horses during some parts of the year. The free-roaming horses are coming into the roadways, pushing out wildlife, and destroying natural habitats because there is not much vegetation left to sustain them. Another challenge is that owners are leaving stallions out at the sites and there is indiscriminant breeding among the horses.

Stopping or slowing the growth of the free-roaming horse herds should be a priority of task force. The KHS and KyEHC have conducted gelding clinics funded by the KHC, ASPCA, and private donors. One of the stationary clinics offered in the eastern Kentucky area serviced 43 horses in one day. Mobile clinics have gone to mountain top sites and locations adjacent to reclaimed mine sites for convenience to the horses and their owners. The KHS has existing relationships with local veterinarians to pay them directly for gelding that needs to be done between free clinic dates. The KHS and local volunteers have set out diversionary hay, feed, and salt to keep the horses on the mountain and out of the roads. She is working on grant program approval for those supplies to continue to be set out this winter. The goal by 2017 is to have a network of people--first responders who are familiar with horses--located in the four corners of each county. The first responders would be able to quickly respond if a horse is ill, at risk, or a safety concern. A long-term goal is to have population mapping and an inventory of the free-roaming horses in eastern Kentucky. Ms. Redmon recently went to three counties that included four reclamation mine sites and counted 220 free-roaming horses.

In response to a question from Representative Steele, Ms. Redmon stated the three counties she covered were Knott County, Breathitt County, and Floyd County.

Ms. Redmon stated that she has created an identification system that will identify a horse in a photo with a number that will inform them of the county, site, and date where the horse was first sited. Her goal is to create traceable information on horses that have been abandoned in eastern Kentucky. The term abandoned will need to be specifically defined and what that title will mean for the horse, owner, and parties involved in the horses' care plan. KHS has donors interested in assisting with an aerial count with thermal imaging, which is needed to tell the difference between body mass of a horse, elk, or deer. KHS is interested in working with EKU, its students, and the aviation department to count the horses. EKU has been given grants to fund the project. KHS has a commitment from a local pilot to assist with the aerial count. KHS also has access to 4x4 vehicles, all-terrain vehicles (ATVs), and drones to secure a count of the free-roaming horses.

Ms. Redmon stated another goal for the Free-Roaming Horse Task Force would be to determine what percentage of herd growth is acceptable during a specified timeframe. The specified percentage and timeframe will help to measure success rates of the plans implemented. One option to halt herd growth is contraceptives for mares, however funding is an issue. Funding is currently through philanthropy, individual and organization donors, foundations, and animal welfare agencies. KHS also receives help from local equine veterinarians. The act of dumping horses on mine sites need to be stopped but from a legislative or law enforcement position.

In response to a question from Representative Steele, Ms. Redmon stated that a helicopter would be a better option than a 172 plane for an aerial account of the horses. At this time, she only has access to a plane.

In response to questions from Dr. Robert Stout, Ms. Redmon stated that injectable contraceptives for mares, porcine zona pellucida vaccine (PZP), and a booster vaccine have worked for the Bureau of Land Management. The appeal of the contraceptive PZP is that it is not permanent and gives the mare a break from breeding to heal and regain strength. She also stated mass collection and holding indefinitely had not worked for the Bureau of Land Management. Ms. Redmon stated she has met with local residents and noted they do not want their horses to be collected unless there is a welfare issue and the KHS has permission from local law enforcement. People running breeding operations on the mine sites. The breeders collect foals that are of good value to sell, and they abandon foals that have physical deformities, average color, or poor confirmation. The issue of making owners accountable for breeding would need to be addressed with a legislative solution.

In response to questions from Representative Hale, Ms. Redmon stated the KHS does not have law enforcement abilities, it is not a municipal agency. KHS is a private sheltering organization at the state level. KHS can advocate for horse welfare but cannot pick up a horse without signed stray hold paperwork from the local county judge-executive or animal control officer. Dr. Stout stated that abandonment is a legal term with a definition in KRS Chapter 257. Failing to provide food, water, shelter, and health care for animals meets the definition of abandonment.

In response to a question from Representative Hale, Representative Steele stated that Dr. Karen Waldrop, Deputy Commissioner of the Fish and Wildlife Department, is a member on the Free-Roaming Horse Task Force.

Ms. Redmon said that holding a horse for 15 days is expensive. County authorities do not have the money to cover the costs to hold and care for those horses. Stallions are more expensive to hold because they require special equipment. Owners do not want to be identified, have the horses marked, or acknowledge that the horses are roaming on the reclaimed mine sites because they could be held liable for the horse or its damage.

Bill Bissett said task force should hear from other county officials, not only judge-executives, who are working directly with the issue of free-ranging horses.

Representative Steele said that there are many volunteers working with horses in eastern Kentucky. Free-roaming horses are a state and local issue, and both governments should work together to create a solution. The task force will start the discussions and dialogue of what needs to be dome to solve the problem of free-roaming horses in eastern Kentucky.

Senator Carpenter stated that he attends cattle and horse sales in Richmond. People with horses in trailers have gone inside the venue to watch the sale and then returned to their trailers to find other abandoned horses inside them. If the horses do not have true market value, they are considered a cull, and some feel they do not serve a purpose to the people of the area.

Senator Robin Webb testified that she is an owner, breeder, and exhibitor of Tennessee Walking Horses. She is Kentucky's representative on the Tennessee Walking Horse Breeders' and Exhibitors' Association executive board and on the by-laws committee. She was the former section chair of the Kentucky Bar Association Equine Law section for two terms. She practices administration law and contract law representing horse owners, trainer, and breeders. She worked as general counsel for the fourth largest coal company with sites in eight states. She has served as president of the National Assembly of Sportsmen's Caucuses (NASC). She was the drafter of the stray and abandoned legislation that passed and is now law. She fights animal rights advocates so that people can proceed to own, utilize, and enjoy recreation with their horses. She stated Kentucky has good care standards for animals. She said that Dr. Robert Stout has volunteered to manage the website where abandoned animals are posted.

She stated she is former resident of and practices law in Knott and Perry counties. She hopes the task force will consider private property interests, horse owners, breeders, and exhibitors in eastern Kentucky. She hopes the task force will help to maintain the cultural standpoint that horses helped to create eastern Kentucky. The horses were valuable to the railroads and worked in the coal mines with people. She will bring legal insight and represent the people who have horses and live in that area. She will promote the horses, equestrian sports, tourism, trail-riding opportunities, and trail towns.

Roll Call

The secretary called the roll.

Adjournment

There being no further business, the meeting was adjourned at 1:15 p.m.

2016 KENTUCKY WORKERS' COMPENSATION TASK FORCE

Minutes of the 1st Meeting of the 2016 Interim

August 19, 2016

Call to Order and Roll Call

The 1st meeting of the 2016 Kentucky Workers' Compensation Task Force was held on Friday, August 19, 2016, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Chris Harris, Co-Chair; Representative Adam Koenig; Steve Barger, JD Chaney, Ray Daniels, Joe Dawahare, Rick Fouts, Larry Gardner, Michelle Landers, Bill Londrigan, Commissioner Dwight Lovan (ex officio), Deputy Secretary Mike Nemes as representative for Secretary Derrick Ramsey (ex officio), Jeff Roberts, Melissa Stevens, Tim Sturgill, Tom Underwood, and Tim Wilson.

Guests: Dr. John Ruser, CEO and President, and Laure Lamy, Regional Director, Workers' Compensation Research Institute; and Commissioner Dwight Lovan, Department of Workers' Claims, Kentucky Labor Cabinet.

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

Welcome

Co-Chairs Senator Alice Forgy Kerr and Representative Chris Harris welcomed the members and explained the purpose and expectations of the task force. All members of the task force introduced themselves for the record.

Comparing Kentucky's Workers' Compensation System with Other States

Dr. John Ruser, CEO and President, Workers' Compensation Research Institute (WCRI) compared Kentucky's workers' compensation system to other states, and discussed various WCRI studies, the CompScope benchmarking study, and an injured worker outcome survey. WCRI is a not-for-profit public policy research organization with the objective to research important public policy issues in workers' compensation systems. Its quality of research is assured with external peer reviews, and it does not make policy recommendations and does not take positions on issues studied. WCRI has support from diverse membership including insurers, service providers, employers, labor, state agencies, and independent rating bureaus. Most of Dr. Ruser's presentation focused on research from the CompScope benchmarking study that compares state workers' compensation benefit delivery systems. The findings were from the CompScope 16th Edition, however, this was the first time Kentucky had been included in the annual study. It includes 18 states that account for almost 70 percent of all workers' compensation benefits paid in the United States.

The first part of the study focuses on 60 broad measures that include cost per claim, cost components, expenses for delivering medical and indemnity benefits to injured workers, timeliness of injury reporting, and many other components. The second part of the study focuses on medical payments. Major benefits of the CompScope study are the comparison to other states' system performance and monitoring of the impact over time of any reforms that have been done.

For the purpose of describing Kentucky and comparing its system to other states, the term “typical” was used, meaning that a particular measure fell in the middle of the distribution of values for the study states. In Kentucky, compared to the other study states, overall payments per claim for claims with more than seven days of lost time were typical. Medical payments per claim were lower than typical due to lower prices, a reflection of reimbursement regulations. Overall expenses to deliver medical and indemnity benefits to injured workers were typical. Medical and legal expenses per claim were higher than typical. Medical and legal expenses would involve medical and legal examinations, reports, and testimonies and depositions of medical experts. Generally, Kentucky has had little change in its cost per claim and other components from 2009 to 2014.

Several graphs and charts were shown with comparisons of Kentucky to the other states in the CompScope study. The data was adjusted for the interstate differences in the injury and industry mix and for wages of injured workers in an effort to make the interstate comparisons more meaningful. The figures also covered claims that occurred in 2012 with experience through March 2015. Kentucky’s costs for all paid claims was 23 percent lower than the 18 state median. The average cost per all paid claims was $7,636 compared to a median of $9,940. One factor that may affect the cost of all paid claims is the fact that Kentucky had fewer claims with more than seven days of lost time. In Kentucky, 18 percent of all paid claims were claims of workers who lost more than seven days of work while the median was 21 percent. The seven day period is significant because in Kentucky no income benefits are payable for the first seven days of disability unless disability continues for more than a week.

Within the Commonwealth, the total payments per claim with more than seven days of lost time were typical with an average of $38,299 and a median of $39,273. There were typical amounts of both indemnity and benefit delivery expenses per claim with only a two percent difference between Kentucky and the 18 state median. Indemnity benefits include payments for temporary total disability, permanent partial disability with lump-sum payments, and permanent total disability and fatality benefits. One system feature that may contribute to these costs is that there is a higher number of weeks of temporary disability in Kentucky. The duration of temporary disability at 16 weeks for Kentucky was three weeks longer than that of the median of states that have permanent or partial disability benefit systems. Another contributing system feature is fewer claims in Kentucky received permanent partial disability or lump-sum payments, but of those cases, the amounts were some of the highest among states that had a permanent partial disability system. An additional factor contributing to indemnity benefit amounts is the statutory maximum average weekly wage rate. More than one in eight injured workers in the state had weekly temporary total benefits restricted due to Kentucky’s statutory maximum average weekly wage rate or about 13 percent as compared to the median state which had 11 percent.

Medical payments per claim were another area that were covered in the CompScope study. In Kentucky, medical payments per claim with more than seven days of lost time were lower than typical. Over a 12 month window, the average medical payment per claim was 13 percent lower than the median state at $10,655. Within a longer time span of 36 months of experience, the average payment per claim of $14,000 was 14 percent lower than the median average. Factors that affect medical payments per claim in Kentucky include prices paid for medical services, outpatient facility payments, and ambulatory surgery center facility payments. A preliminary CompScope Medical Benchmarks study as well as other studies done by WCRI illustrated these factors. Prices paid for professional services in Kentucky were 14 percent lower than the median average. Hospital outpatient facility payments per surgical episode were in the lower group of 33 states in 2014. There were higher payments for common surgical episodes performed at ambulatory surgery centers, however, there was a lower use of these types of centers in Kentucky compared to other states.

Another area that Dr. Ruser covered was benefit delivery expenses per claims. Although most expenses per claim, which would include managed care costs, litigation expenses, and defense attorney payments, were typical, there were a few individual components that diverged from the median state within the study. Medical cost containment expenses per claim, percentage of claims with defense attorneys, and defense attorney payments per claim were all typical compared to the other study states. However, medical and legal expenses per claim were 23 percent higher than the median state at $2,142 compared to $1,738.

Overall and for all components, costs per claim changed little from 2009 to 2014. In that time span, Kentucky had a 2.3 percent increase per year on average compared to the median state that had a 2.8 percent increase. The total cost of indemnity benefits per claim grew slightly slower than the median study state. Both benefit delivery expenses and medical payments per claim grew at a similar rate as the other study states.

Dr. Ruser summarized the WCRI report that analyzed outcomes for injured workers in Kentucky. The study offers assessments of significant results achieved by injured workers in the state and 14 other states. Although historically there has been abundant information about costs, there has not been sufficient research done on how injured workers fare in the workers’ compensation system. WCRI conducted this study by doing a telephone survey to interview injured workers with injuries with more than seven days of lost time three years post-injury about the key outcomes of physical recovery; speed and sustainability of return to work; earnings recovery; and satisfaction and access to medical care. Comparisons amongst states were made while controlling for differences in the characteristics of gender, age, education, marital status, injury type, injury severity, size of employer, industry, and tenure. WCRI considered figures to be similar to the 15 state median if they were within three percent points and considered somewhat higher if more than four to five percentage points. Kentucky was similar in most key outcomes of injured workers except speed and sustainability of return to work. Workers reported a somewhat higher rate of no substantial return to work. Eighteen percent of injured workers in the state reported no return to work or return to work not sustained for at least 30 days due to the injury compared to the 15 state median of 14 percent. Moreover, injured workers reported major issues getting their desired primary provider and desired services but the findings were within one percentage point of the median. Dr. Ruser informed the members that they are welcome to contact him with questions during their deliberations on the task force.

After a question from Representative Adam Koenig, Dr. Ruser said the 18 states for the CompScope reports were chosen based on the size of the state and claiming and cost experience. However, the goal is to add as many states as possible. The states in the study are the states that funded the work. Answering a follow up question, Dr. Ruser explained the goal is to hold constant the mix of workers when performing the CompScope but not the individual state policies because they are what is driving the differences in the data. Also, he said cost of living is not held constant but would take note of it for future research.

Responding to Mr. Joe Dawahare, Dr. Ruser said the measures are per claim and do not reflect unemployment rates. As the economy in any given state will vary so will the total number of claims, but WCRI’s goal is to review the cost per each individual claim.

Addressing Mr. JD Chaney, Dr. Ruser said although this is the first year Kentucky has been included in the CompScope study, most data is over 36 months of maturity and some are at 60 months.

In response to Mr. Steve Barger, Dr. Ruser stated that although 18 percent of injured workers reported having major problems getting their desired primary provider and desired services, there were some that reported having just some problems. The major problems were of a larger concern. He said he would let Mr. Barger know what that particular percentage was that reported just some issues.

Replying to Mr. Tom Underwood, Dr. Ruser explained that data was not gathered about the types of services that would have been denied to injured workers but only the reasons people perceived the services were denied. Unlike the other standardized data, the injured worker study was self-reported. Ms. Lamy added that major problems did not necessarily mean a direct denial and that there were other contributing factors that could have had an influence on the perception of the difficulty receiving a desired service. Dr. Ruser said that in describing some factors that may be responsible for some of the outcomes they observed, the task force members may want to review the longer duration of temporary or total disability in Kentucky of 16 weeks as opposed to the median of 13 weeks as a result of the state lacking temporary partial disability payments. He noted that although he cannot make recommendations, there are suggestive factors within the data.

When Mr. Tim Wilson referenced a presentation Dr. Ruser provided on August 12, 2016, Dr. Ruser explained that even if in that particular presentation it was portrayed that 54 percent of Kentucky injured workers reported that their perceived biggest problem was the employer or insurer did not want care provided, the data is not standardized across the 15 states that were included in the study and that issue is very general. Ms. Lamy followed up by clarifying the 54 percent of injured workers Mr. Wilson was referring to in the other presentation was 54 percent of the 18 percent that reported big problems receiving desired services and not 54 percent of the total number of injured workers in Kentucky. Answering another question from Mr. Wilson, Dr. Ruser confirmed factors such as gender, age, education, and other characteristics were controlled for in the injured worker study.

Workers' Compensation History and Workers' Compensation Act

Commissioner Dwight Lovan, Department of Workers' Claims, Kentucky Labor Cabinet, gave an overview of the history of workers' compensation in Kentucky as well as the Workers' Compensation Act. 2016 is the 100th anniversary of constitutional workers' compensation law in Kentucky. The first Workers' Compensation Act of 1914 was declared unconstitutional. Workers' compensation is purely a statutory creation that is considered one of the earliest forms of social legislation. It began as an agreement between labor and industry as the country started to become more industrialized to place the responsibility of workplace injuries and diseases on the industry in which it occurred rather than with the general public. Both employee and employer gained and lost something with the creation of workers' compensation. The employee gained the expediency and certainty of benefits being delivered but lost certain aspects of a personal injury claim that an injured worker would not receive, such as pain and suffering. For the employer, workers' compensation is the exclusive remedy, and Kentucky has historically been strong in upholding the exclusive remedy provisions. An employer cannot have tort liability to an employee, and even if an employer is negligent, the employee cannot file suit in circuit court. Workers' compensation is state specific and varies from state to state, which makes interstate comparisons difficult to do because indemnity benefits, medical benefits, length of benefits, definitions of injury, and almost all other components of the system are going to differ from state to state.

In Kentucky, any person or entity with one or more employees is considered an employer. Under the Kentucky Workers' Compensation Act, all employers are required to provide coverage either through an insurance company or a self-insurance group, or to be authorized to self-insure their liability. Failure to do so would result in a citation from the Department of Workers' Claim, as well as other sanctions under statute. Exemptions to the Workers' Compensation Act include agriculture employees, some domestic workers in private homes, those working for sustenance if with a charitable or religious organization, those covered by federal law, and certain religious organizations, among others. Commissioner Lovan said up-the-ladder coverage can become an issue particularly in the construction industry when there may be a number of subcontractors. In Kentucky, there are six self-insurance groups participating in the workers' compensation system and 108 self-insured employers that are certified through the Department of Workers' Claims. The state has a competitive state fund, which is a mutual insurance company that was created in 1994 and known as the Kentucky Employers Mutual Insurance Company (KEMI).

There have been several major changes to the state's workers' compensation system. In 1973, major statutory changes were made that included all income benefits becoming lifetime with both permanent partial disability and permanent total disability. The definitions of what constitutes an injury were also modified. At that time the occupational disease portion of the law became more significant. In Kentucky the foremost occupational disease is coal workers' pneumoconiosis, better known as black lung disease. The 1973 modifications were in effect until more changes were made in 1980. Weekly income benefits increased and permanent partial disability was limited to 425 weeks instead of lifetime. A task force was formed in 1987 that altered the system itself, changing from a part time workers' compensation board to an Administrative Law Judge system with an appellate body known as the Workers' Compensation Board. This remained in force without major changes until 1994 when permanent partial disability was addressed substantially and retrained incentive benefits were added to the portion of the law covering black lung disease. In 1996, a special session addressed black lung disease and made permanent partial disability follow a more strict mathematical formula involving the American Medical Association guidelines. Generally, Kentucky is still operating under the 1996 law, although there were small changes made in 2000 and 2002. Therefore, the workers' compensation system in the state has been fairly stable for about 20 years.

There are other entities that conduct studies on Kentucky's workers' compensation system besides WCRI such as the National Council on Compensation Insurance (NCCI). NCCI receives data of all kinds from every insurance carrier that writes in Kentucky. It performs an annual loss cost filing that is presented to the Department of Insurance for its approval. Insurance companies are then given the opportunity to review the Department of Insurance's loss cost recommendations to determine if they want to alter their premiums. On August 18, 2016, NCCI presented its annual report when it recommended a five percent reduction on the loss cost, which is still pending with the Department of Insurance and is the tenth year in which there has been a recommended loss cost reduction. Overall, from 2006 to the current year, the recommended total loss cost recommended reduction is 53.5 percent. There is not an automatic direct reduction in premiums because premiums are based on different factors and are employer specific. Therefore, KEMI may decide not to reduce its premiums by five percent based on its research, data, and experience. Commissioner Lovan emphasized that the data from NCCI does not include the coal industry and only includes industrial classes. The recommendation for the coal industry was a 25 percent increase on underground mining and

18 percent increase on surface mining. There are unique issues concerning the coal industry and workers' compensation.

Another study that is done biennially is the Oregon workers' compensation study, which reviews all states' workers' compensation systems. It compares about 50 employment codes that are considered to be consistent across all states and compares them in terms of cost per dollar in workers' compensation. The rating system that the Oregon study uses makes a rating of one the worst and 50 the best. In 2014 Kentucky was rated at 44 compared to being rated 27 in 2012, as far as cost to employers. Commissioner Lovan stated that other states look to Kentucky as an exceptional example for a stable workers' compensation system. He also highlighted that NCCI reported medical expenses are 57 percent of every workers' compensation dollar compared to 68 percent nine years ago.

After a question from Mr. Tom Underwood, Commissioner Lovan said there is an individual breakdown of the medical expenses he spoke of at the end of his presentation. NCCI has done a study on pharmaceuticals in particular, and within the last 10 years pharmaceuticals have moved from six percent of the total medical dollar to about 20 percent of the total medical dollar.

Responding to Ms. Melissa Stevens, Commissioner Lovan said that NCCI's report gave a breakdown of temporary total disability claims, permanent partial disability claims, permanent total disability, and fatalities with temporary total disability claims being the largest percentage of claims that had indemnity that were not medical only.

Addressing Mr. Bill Londrigan, Commissioner Lovan clarified how to calculate the loss cost filing figures, confirming that from 2006 to current the recommended total loss cost recommended reduction is 53.5 percent.

Replying to Mr. Jeff Roberts, Commissioner Lovan said that the NCCI report did not take into account lost adjustment expenses or medical legal expenses in the calculation of workers' compensation dollars spent. NCCI reporting that medical expenses are 57 percent of every workers' compensation dollar is just a straight impact between indemnity and medical expenses and not necessarily the associated costs of either.

Addressing comments made by Co-Chair Harris, Commissioner Lovan stated the most significant change in recent years to the workers' compensation system was due to court decisions in *Gardner v. Vision Mining* (2009) and *Joe Martinez v. Peabody Coal* (2010), which forced the Kentucky Court of Appeals to find the provisions of KRS 342.316 regarding the consensus process and panel process used to determine eligibility for black lung benefits to be unconstitutional under the equal protection clause. This completely changed how black lung claims are handled. There are several provisions in KRS 342.316 that are now unconstitutional but are still on the books. Co-Chair Harris said that he would like to suggest the removal of those unconstitutional laws from statute through recommendations of the task force.

There being no further business, the task force was adjourned at 11:35 a.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 6th Meeting of the 2016 Interim

August 22, 2016

Call to Order and Roll Call

The 6th meeting of the Public Pension Oversight Board was held on Monday, August 22, 2016, at 12:00 PM, in Room 169 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Gerald A. Neal, Representative Brian Linder, John Chilton, Mitchel Denham, Timothy Fyffe, Mike Harmon, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Donna Early, Executive Director, Judicial Form Retirement System; Donald L. Asfahl, President, Hilliard Lyons; Andrew W. Means, Director of Investments, Hilliard Lyons; Judge Laurance Vanmeter, Kentucky Court of Appeals; David Peden, Chief Investment Officer, Kentucky Retirement Systems; Tony Johnson, Director of Midwest Consulting and a Senior Consultant, R.V. Kuhns & Associates, Inc.; Beau Barnes, Deputy Executive Director, Kentucky Teachers' Retirement System; and Max Kotary, Partner & Investment Consultant, AON Hewitt

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

Representative Yonts introduced Timothy Fyffe as a new member to the Public Pension Oversight Board (PPOB). Mr. Fyffe works for Central Bank and is a Chartered Financial Analyst who is involved in business development and investment management for the banks' high net worth and institutional clients. Mr. Fyffe manages fixed income and equities for personal trusts, employee benefit accounts, and foundation accounts.

Approval of Minutes

Senator Bowen moved that the minutes of the June 27, 2016, meeting be approved. Mac Jefferson seconded the motion, and the minutes were approved without objection.

Judicial Form Retirement System Investment Update (FY 2016)

Donna Early, Executive Director, Judicial Form Retirement System (JFRS), introduced Donald Asfahl, President and Andrew Means, Director of Investments, Hilliard Lyons. Mr. Asfahl stated that Hilliard Lyons Trust Company has about $8.3 billion in assets for individual clients and endowment foundation retirement plans. Current asset allocation as of June 30, 2016, for the judicial defined benefit plan, as well as the legislators defined benefit plan, is about 74 percent equities and about 26 percent fixed income. The cash assets within the portfolio are in custody at State Street. The investment policy is 60 to 80 percent equities with a target of 70 percent and 20 to 40 percent fixed income with a target of 30 percent. The current yield of the equity portfolio is 2.6 percent and about 3.5 percent on fixed income, for a total of 2.9 percent. Dividends are up about 13 percent over the last twelve months ending in June.

Mr. Means explained the investment philosophy and approach. The core equity portfolio focuses on the long-term ownership of great companies purchased at compelling valuations. Underlying the equity approach is a realization that large concentrations of wealth generally result from long-term ownership of successful businesses. The second aspect is identifying management that has shown an ability to maintain that business advantage, looking to buy businesses for clients at discounted prices, and investing from the perspective of a long-term business owner. The average holding period of each investment in the portfolio is around thirteen to fifteen years. The goal is to find great companies, be long-term owners, and let the businesses generate attractive rates of return over long periods of time.

Mr. Means discussed the portfolio's processes for reducing the risk of owning equities. The portfolio attempts to mitigate business risk by looking for companies with long-term competitive and sustainable advantages. Hilliard Lyons reduces company risk by identifying management teams that allocate the capital intelligently and for the benefit of shareholders. Price risk is minimized by establishing an intrinsic value for each business that is evaluated and by making the investment at a discount to what that intrinsic value is.

Mr. Asfahl discussed the fixed income side of the portfolios, which represents roughly 26 percent of the overall portfolios. Every holding in the portfolio is investment grade. The lowest rated credit holding rating is at least BBB+ and represents only five percent of the portfolio, while everything else is an AA credit rating or above. The portfolio is underweighted treasuries around eight percent relative to the intermediate index, which is approximately 56 percent treasuries. The portfolio's total yield is about 3.5 percent versus the index at 2.4 percent, which is primarily due to the index's larger allocation to treasuries and government bonds which have a lower yield than corporate credit. The portfolio's duration, which is present value of future cash flows, is shorter than the index at about 3.4 years versus four years for the index.

Mr. Means noted that the judicial and legislative plans' performance is almost identical given that the strategies have been managed identically and own about the same securities. Over the last year, the LRP portfolio was up 3.3 percent versus 4.3 percent for the 70 percent equity and 30 percent fixed income benchmark. The performance goal for the equities is to substantially outperform the S & P 500 over a full market cycle. For JRP, during this last one year period the equities were up 3.29 percent vs. 3.99 percent for the S & P 500. The trailing three year period return was slightly over the index, while the five year return was over 300 basis points better. Looking at the ten-, fifteen-, and twenty-year returns, all have substantially beaten the S & P 500. Fees have ranged between six to eight basis points during those time periods. LRP numbers are very similar.

Responding to a question by Senator Bowen, Mr. Means and Mr. Asfahl said that Hilliard Lyons would not object to the transparency requirement of the Model Procurement Code (MPC).

Responding to a question by Director John Chilton, Mr. Means stated, in regards to future investment returns, with interest rates being at such low levels, it is likely that in the short to intermediate term returns from the fixed income are going to be below historical normals. For equities, he stated a similar story in the short to intermediate term is likely given the prospect of a rising interest rate market in the near future.

In response to a question from Representative Yonts, Ms. Early and Mr. Vanmeter stated that the investment committees are involved in discussions with Hilliard Lyons at each meeting regarding changes in asset investments.

In response to questions from Representative Jerry Miller, Mr. Asfahl said Hilliard Lyons has been managing JFRS assets since 1993 and that the total portfolio for JFRS and others was currently valued at approximately $8.3 billion. Mr. Asfahl also stated that Hilliard Lyons business is very scalable given the large cap nature and liquidity of the underlying portfolio.

Kentucky Retirement System Investment Update (FY2016)

David Peden, Chief Investment Officer, Kentucky Retirement Systems, and Tony Johnson, Director of Midwest Consulting and a Senior Consultant, R.V. Kuhns & Associates, Inc., presented.

Mr. Peden discussed investment performance and how 90 percent is a function of asset allocation, while the remaining 10 percent is the result of manager selection and rebalancing. The goal of an asset allocation is to strike the right balance between risk and return, which is what the asset liability modeling process seeks to do. Drawing the members' attention to recent asset class performance, Mr. Peden noted that the S & P 500 index had returned 12.1 percent for the last five years, which is above its longer term historical return of just below 10 percent. Additionally, the NCREIF had a return of 12.2 percent for the past five years with a very low risk versus its longer term historical returns. When looking at risk across each of the time periods, Mr. Peden said the volatility of fund of funds or hedge funds was not much greater than fixed income and that risk was the main driver for why KRS utilized this asset class.

Mr. Peden discussed the target asset allocation for each plan, and noted that KRS includes the information as an appendix of the investment policy statement which is available on the company website. The table shows which asset classes in which KRS invested, the benchmarks for each asset class, and the allowable rate for rebalancing. Mr. Peden noted that the Kentucky Employees Retirement System (KERS) and State Police Retirement System (SPRS) portfolios are beginning to deviate from the three relatively healthy plans and five insurance portfolios.

Responding to a question from Representative Yonts, Mr. Peden explained that SPRS and KERS are largely deviating due to a liquidity crunch and the fact that both are shrinking in value. Given liquidity needs, KRS is moving away from illiquid asset classes for KERS, such as private equity where KRS has not made a private equity investment for this fund since 2009. With regards to SPRS, this was the first year that no private equity investments have been made. Mr. Peden did note that the additional $25 million budgeted above the ARC for SPRS made a huge difference in its unfunded liability and if it was feasible to follow that up in the next budget cycle as well, staff could possibly put them back into a more than normal 7.5 percent return target.

Mr. Johnson discussed the long term benefits of being diversified across all markets. As a firm, R.V. Kuhns believes equities will do well in the long run and bonds will be challenged in coming events as yields start to go up and bond returns challenged.

Mr. Johnson referenced a R.V. Kuhns & Associates, Inc. study that compared how large pension funds, like KRS, allocated across multiple asset classes. The study began with 1995 and moved forward every month calculating a trailing 10-year returns through December 31, 2015. The study calculated a 10 year return for a 60 percent U.S. equity and 40 percent U.S. fixed income portfolio and compared it to the return of diversified portfolio. Over the period studied, 88 percent of the time the diversified portfolio outperformed the 60/40 portfolio. It was not until the last 10 year period that a 60/40 portfolio has outperformed a more diversified portfolio. Several factors have driven this change, most notably the recession experienced in 2008. Looking forward, research shows that equity valuations in the U.S. market are overvalued and stock values are high relative to other markets. If one believes in reversion of the mean, than one would expect the U.S. market to come down and the lower valuations that are seen in international markets and emerging markets will become more attractive. Also, as interest rates start to move up and fixed income is challenged from a returns standpoint, the more basic 60/40 portfolio return will begin to decline.

In response to questions by Senator Bowen, Mr. Johnson said once interest rates begin to climb, a reversal of what is going on globally will occur and a rebalancing of people investing more globally will be seen. In a 60/40 portfolio, bonds have historically been used as the ultimate protector that would earn about seven to 10 percent, but bonds today are not projected to earn more than three to four percent in the future. The only way to reach the goal is to diversify to markets beyond the U.S. Looking forward, the KRS portfolio is positioned well for the future, and it just has not been positioned well for all the bank intervention and concentration of investments within the U.S.

Responding to questions from Auditor Mike Harmon, Mr. Peden said there is a secondary market for private equity but the plan would have to take a discount when selling. The maturity level of each investment is generally between seven and ten years, with a few investments possibly lasting up to fourteen years. In terms of having meaningful dollars in one particular private equity manager, around the eight to nine year mark is when it will peak and roll over.

Mr. Peden continued with a review of composite performance, which he noted was becoming less important given each individual system is its own entity and allocations are differing. In terms of performance drivers for the year, the more real estate, private equity, core fixed income, and U.S. large cap equity exposure a portfolio had the better it did. The more non-U.S. equity, U.S. small mid cap equity, and hedge funds exposure, the worse the plan performed.

Mr. Peden discussed underlying plan performance beginning with the insurance plans, which all had negative absolute performance, but each plan was pretty close to or outperformed the benchmark.

On the pension side, it was a bit different as a few plans beat their benchmark for the fiscal year, while a couple were a bit more challenging. The KERS non-hazardous and SPRS have different allocations and those were the two plans that trailed the other three. This was mostly due to the change in asset allocation that occurred on January 1. The three healthier plans, KERS hazardous, County Employees Retirement System (CERS) non-hazardous, and CERS hazardous, all rebalanced or purchased additional equity exposure at a low point in the equity market, which SPRS and KERS non-hazardous did not get to participate in. Additionally, KERS' exposure to private equity is rather dated and mature at this point, which is limiting the upside or appreciation remaining and is serving to drag performance. At this point, KERS non-hazardous still has a lot of capitol tied up in private equity, and its private equity is not being as additive to the portfolios as KRS would like. There is not a lot that can be done except be patient, let it mature, or look at doing a secondary sale. KRS has already done one secondary sale, and it is a reason why the pension private equity portfolio as a whole only did 5.5 percent, while the insurance private equity returned over 10 percent last year. The private equity assets in the insurance plan is more representative of what could be done in private equity.

Mr. Peden explained how the first half of the fiscal year was very difficult and the portfolio ended December down 2.95 percent. January continued to be a difficult market and the portfolio hit a low point at the end of January when it was down 5.56 percent. The second half of the fiscal year was positive and the portfolio got back to only 50 basis points down for the year. The year ending with a great quarter, being up 1.3 percent and the portfolio allocation actually started working well during the last four months. Value stocks are doing better than growth, active management is doing better than passive, and positive contributions from both real return and absolute return will be seen. Mr. Peden stated that KRS is in the bottom third of risk in the peer group from a standard deviation standpoint. Based on funding, the ratio should be in the bottom third in terms of the amount of risk taken. KRS is trying to improve the portfolio from a performance standpoint, but from a risk perspective KRS is exactly where it wants to be.

Responding to questions from Senator Bowen, Mr. Peden stated that CEM Benchmarking Inc. (CEM) study that was presented during the June meeting is the best option available for considering the industry standard on what fees should be. Considering a funds philosophy and asset allocation targets and trying to compare similar plans is the best way to do a comparison at this point.

Responding to a question from Representative Yonts, Mr. Peden said KRS has created a four person investment accounting team that is dedicated to investment operations and are tasked with capturing data for useable information and these responsibilities have become full time positions.

Responding to questions from Timothy Fyffe, Mr. Johnson stated that R.V. Kuhns and KRS staff do have access to allocation information with other plans in the industry, however it is at a broad level. Mr. Johnson said that adjustments made to the portfolio are based on the systems specific needs from a return standpoint and risk standpoint.

Responding to a question from Mr. Fyffe, Mr. Peden noted that 20 percent of the MSCI all country world index is emerging markets. The previous asset allocation targets included a dedicated additional four percent allocation largely to juice up the return. The new allocation does increase total exposure, but the dedicated allocation was removed.

Responding to a question from Mr. Fyffe, Mr. Johnson discussed how R.V. Kuhns evaluates current market valuations. When looking at valuations, the firm looks back historically over the entire timeframe using a representative index. For instance, within the large cap U.S. market, R.V. Kuhns uses the S & P 500 over its history and reviews normal or historical valuations. These historical values can then be compared to more recent periods, such as today where earnings and dividends are historically high. Using this information, one can project the expected return given a normalized range of earnings and dividends. When looking back to R.V. Kuhns most recent forecast which was done in 2015, the U.S. market was viewed as being richly valued relative to its historical average. The current return expectation for U.S. market is going to come down slightly given it is still above the historical normals. Looking at international markets, the valuations are relatively low compared to the U.S. market place. Projecting out over a ten to twenty year period, those averages are going to come up. The forecasted view is that investors should be overweight if not equal weight to the U.S. market. Lastly, the strength of the U.S. dollar has been strong for so long that when converting international investments into U.S. market places it actually drags valuations down. Watching the valuation of the dollar come down, the benefits of the international markets just on the currency basis alone starts to show positive effects in the market place.

Responding to a question by Senator Damon Thayer, Mr. Peden stated that the cash infusion that SB 2 required the legislature to meet is invested into the broad investment portfolio. However, the employer contribution last year was around $500 million and the employee contributions around $100 million. KRS pays out $900 million in benefits and refunds, so it will still take a number of years before the portfolio will not be shrinking and staff can fully invest the additional contributions. The ARC plus that was given in the more recent budget just went into effect in July, but that obviously helps escalate that difference.

Responding to a question by John Chilton, Mr. Peden discussed return expectations. Cash is currently earning between 0 and 50 basis points, while in fixed income, the 10-year yielding is at 1.5 percent which put the total fixed income yielding just shy of two percent at the start of last fiscal year. Within core fixed income the index just returned six percent and KRS had one particular enhanced index manager that returned 6.6 percent. This was not expected given the expectation of rising rates. In fact, due to the Brexit and fear around that decision, core fixed income returned 1.8 percent in June alone. So given these returns, one would expect some reversal within fixed income. So with the core fixed income earning two percent or less and cash being 0 to 50 bases points, equities are going to be required to do a ton of heavy lifting to get any type of positive return. In fact, KRS had to add additional equities to the portfolio in order to try and create a portfolio that would earn 7.5 percent, but adding equities adds risk to the portfolio. That is part of trying to strike the balance between risk and return. Mr. Peden believes that it is going to be difficult to earn 7.5 percent in the next five year period until interest rates normalize.

Responding to a question from Representative Yonts regarding the upcoming financial audit, Mr. Peden stated that KRS had provided a number of documents to the Governor's Office and was waiting to find out if the final audit for all systems would be a fast audit or if there was going to be a request for an extension.

Kentucky Teachers' Retirement System Investment Update (FY2016)

Beau Barnes, Deputy Executive Director, Kentucky Teachers' Retirement System (KTRS, and Max Kotary, Partner & Investment Consultant, AON Hewitt presented.

Mr. Barnes reiterated that it was a lackluster year in the market, noting that some asset classes struggled more than others, although many of the assets that had lackluster results this year have served the portfolio very well in prior years and were the same assets that have helped achieve good returns in past years, such as, 18.1 percent for 2014. Beyond tough markets, a big problem that KTRS had was negative cash flow. KTRS has projected that about $650 million in assets were sold during the fiscal year just to pay monthly retirement benefits. KTRS not only had to sell investments, but also had to forgo several investment opportunities when markets were down and assets were available at an undervalued price. KTRS received a cash infusion of $973 million from the budget. The first installment of about $125 million was received on July 1 and timing was positive. Markets have been up since June 3, and the portfolio has created additional funding of about $325 million in market value, which is about a two percent gain in the portfolio.

Mr. Barnes discussed how performance had historically been presented. The plan has historically reported returns gross of any fees and then reported expenses as a separate line item. The plan has been reporting net of fee returns to the oversight board, but the performance included in the presentation is still gross. Looking back, prior to 2000 the fees range between five and six basis points. KTRS was not invested in non–U.S. stocks due to it being more expensive than U.S. stocks. Also, private equity was not part of the portfolio, and real estate investments were not what they are today. The fees have increased from that historic five to six basis points to 25 basis point by the end of 2015. Compared to other pension plans in the country, the fees are still low.

Mr. Kotary provided a summary of performance during the fiscal year. When focusing on the one year numbers, the fiscal year return through June 30, 2016, was negative 1 percent. It was a challenging year on an absolute and relative basis as the policy index that measures returns was up 1.5 percent. U.S. equity, which fell 1.8 percent, and non-U.S. equity, which fell 10.8 percent, were clear underperformers. The fixed income side of the portfolio was an area of strength, up nearly seven percent and modestly outperforming the index. The additional categories, which is largely credit and higher yielding credits were also challenged from a return prospective on both an absolute and relative basis. The real estate portfolio was a standout performer on both an absolute and relative basis returning 13 percent and more than doubling the performance of the benchmark index.

Mr. Kotary highlighted the funds asset allocation relative to policy targets. As of June 30, actual asset allocation was more or less in line with all long term policy targets. Over time the plan has sought to diversify exposure to real estate, private equity, and other alternative assets, which is something the system plans to continue going forward.

Mr. Kotary discussed relative performance, noting that U.S. equity was the primary reason total performance lagged the policy benchmark. It was a very challenging market for active managers over the past year, with about 90 percent of active managers failing to add value over the benchmark index. Longer term returns remain strong compared to peers. Looking over three-, five-, or ten-years relative to a peer universe of large public plans, this system ranks in the top of that universe.

Responding to questions from Representative Yonts, Mr. Kotary stated there are two reasons why 90 percent of U.S. equity portfolios failed to outperform the broad U.S. stock market; first, fundamentals are not being rewarded or recognized in the market; and secondly, there has been an extreme focus on dividend income. Mr. Kotary also stated that with anticipated increase of the Federal interest rates the fixed income investments would be challenged. Over the past six or seven months it went from market pricing three or four Federal hikes over the forward twelve month period to it being even money as to whether or not there would even be a Fed rate hike over the twelve month period.

Mr. Kotary continued with focusing on the one year period, the medical insurance trust fund fell -1.7 percent and trailed its policy benchmark by 1.2 percent. The largest driver of relative underperformance was the additional categories asset class, which was down almost three percent relative to a benchmark return of 1.5 percent. Those are mostly credit orientated investments, high yield, bank loan, etc. Mr. Kotary also highlighted current asset allocation for the medical fund, longer term performance and noted that investments within private equity and real estate will continue to be funded over the next several years. In fact, one of the reasons the fund trailed its benchmark index was due to the time it takes to get investments in private equity and real estate working. This portfolio was below its targets during the year as it established investments to be made. When looking at performance relative to the benchmark index, about half of the reason it lagged was the portfolio was underweighted to those sectors of the market relative to its benchmark.

Responding to questions from Mac Jefferson regarding the funds current allocation, Mr. Kotary noted that fixed income was one of the stronger areas of the market over the past year and this performance has resulted in fixed income assets growing as a percentage of total pension assets. Mr. Kotary noted that staff generally will use overweights to take cash for benefits or bills. There are also times when a hard rebound is required due to assets reaching the top end of a target, however this is not preferred as long as the allocations are close given the cost involved.

Responding to a question from Mr. Chilton, Mr. Kotary stated that AON Hewitt's view over the near term is not much different from others, with the expectation that it is going to be a challenging market. Over a longer term time horizon, looking out 10 to 30 years and looking at assumptions, 7.5 percent looks achievable.

Responding to a question from Senator Bowen, Mr. Kotary stated that AON and staff would look to make changes if there are clear opportunities, however it appears most asset classes are going to be challenging and there are not a lot of very attractive options on a relative value basis available.

Responding to questions from Auditor Harmon, Mr. Barnes said with an adjusted assumed rate the investment strategy would probably stay the same, but the actuarial measures of unfunded liability funded status, and the budget requests would change.

Performance Audit Update

John E. Chilton, Budget Director, Office of the State Budget Director stated in May a request for proposal for the pension audits for the analysis was issued. There have been multiple proposals by consultants and there is an evaluation committee that is working on negotiating a contract. Work should begin in early September.

With no further business to come before the board, the meeting was adjourned. The next regularly scheduled meeting is Monday, September 26, 2016.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

2016 Interim

September 8, 2016

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, September 8, 2016, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order. He led the committee and audience in the Pledge of Allegiance and a prayer. The secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Terry Mills, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, Dan "Malano" Seum, Reginald Thomas, and Stephen West; Representatives David Meade, Rick Rand, Arnold Simpson, Chuck Tackett, and Jeff Taylor.

Legislative Guest: Representative Derrick Graham.

Guests: Van Ingram, Executive Director, Heather Wainscott, Branch Manager, and Amy Andrews, Program Coordinator, Kentucky

Agency for Substance Abuse Policy, Kentucky Office of Drug Control Policy; Trooper Kendra Wilson, State D.A.R.E. Coordinator, Kentucky State Police; Bruce Owen, Retired D.A.R.E. Coordinator, Civilian Instructor-Kentucky State Police Academy; and Phyllis Millspaugh, Manager, Behavioral Health Prevention and Promotion Branch, Department for Behavioral Health, Developmental and Intellectual Disabilities.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall; Colleen Kennedy; Jean Ann Myatt; Chris Riley; William Spears; Joel Thomas; and Kate Talley, Committee Assistant.

Senator Carroll welcomed Senator Reginald Thomas as a new committee member replacing Senator Dorsey Ridley. Representative Derrick Graham was welcomed as a guest.

Minutes for August 12, 2016

Upon motion by Representative Simpson and second by Senator West, the minutes of the August 12, 2016, meeting were approved by voice vote, without objection.

Drug Abuse Prevention Programs in K-12 Schools

Senator Carroll explained that a factor in the choice of today's topic is the overwhelming heroin epidemic in the state. Prevention programs in the school system seem to be missing from newspaper headlines and reports.

Mr. Ingram said the state is in the middle of the worst drug crisis it has seen. Kentucky's drug problem has changed; the greatest exposure to substance abuse is now from opioids. The conversation should be broader than just schools. Federal research organizations such as the Centers for Disease Control now recommend increased knowledge of how addiction works and research on chronic, non-cancer pain. For most chronic conditions, opioids are not truly effective. Greater education with regard to drugs is needed.

Prevention education is needed from kindergarten through high school (K-12). The Kentucky Office of Drug Control Policy (ODCP) tries to reach minors by buying time at movie theaters for public service announcements and by working with church groups, but schools are still the best place to reach children. A program called Too Good for Drugs was funded in previous years to be taught in 50 elementary schools in eastern Kentucky. Adolescents' use of drugs declined during the program, but the program is not taught as much now due to funding issues.

Ms. Andrews reported on a survey conducted by the Kentucky Agency for Substance Abuse Policy (ASAP). The Too Good for Drugs program for K-12 was mentioned most often as effective. "Class Action," for middle and high school students, and "Project Northland," for elementary students, were also considered effective. These are 10-week, peer-to-peer programs. Schools, however, find it difficult to create the necessary time in the curriculum to incorporate these programs.

In response to questions from Representative Simpson, Mr. Ingram said no money is allotted for these programs to schools by the state. ODCP allots some money to each county and some school districts apply for federal grants. Programs are taught based on each county's interest.

Representative Graham commented that perhaps as the curriculum is developed, ODCP could collaborate with the commissioner of education and the education community to incorporate the programs into existing subject areas, especially in middle and high schools.

Mr. Ingram said his office would welcome a collaboration with the Department of Education and that ODCP working with the department to provide Narcan to all schools.

Representative Graham noted that he would like to hear about how to integrate successful programs into the curriculum. Part of being career ready is not failing a drug test for employment.

Ms. Andrews said Kentucky Family Resource & Youth Services Centers (FRYSC) officers are used in most schools. The required curriculum includes this as a component, but it is a small program. Some schools incorporate it by having someone from the guidance office come into class.

In response to a question from Representative Graham, Ms. Andrews said that the FRYSC program is schoolwide and all students receive it.

Representative West commented that he knows the schools are trying, but the drug problem is escalating. The current approach seems to be scattered, primarily due to funding.

In response to a question from Senator West, Mr. Ingram said he does not know how much it would cost to streamline all the schools' approaches at the state level, but he can research it. It comes down to whether it is best for the state to do this or for local communities to decide what they need. He favors the local approach, since many of the current programs have begun there.

Senator West commented that the state has have reached a point in which it must make time for this education. The state cannot afford not to do this since it affects the ability to get a skilled workforce.

Senator Carroll said he agrees that it must be a coordinated effort between the state and local communities. Perhaps it could be a more centralized depository of information upon which schools can draw.

Mr. Ingram said it cost about $500,000 for the Too Good for Drugs program for which federal funds had been awarded for 50 elementary schools in previous years before funding ended.

Trooper Wilson said the D.A.R.E. program began in the 1980s and has been altered over the years to fit changing conditions. Reinventing the wheel by instituting a new program might not be the best approach. D.A.R.E teaches children how to respect themselves, how to communicate with others, and empowers them to do the right thing. It results in drug abuse prevention by teaching children how to resist. The D.A.R.E. program is now called Keeping It Real. It is a 10 week program in which students develop plans to make the right choices.

She described an example of a small girl who angrily resisted the class. She noticed the girl was not at school for a few weeks and found out it was because she had been in rehabilitation for heroin. When she came back to school, she said she had been clean for 4 weeks. The younger children have a different attitude from the older children; they want a D.A.R.E. officer there to teach them. She read an email from a woman whose son died of an overdose. The woman commended the state police for their work in educating the public of the dangers of substance abuse.

Trooper Wilson said that she gets calls weekly from schools across the state wanting a D.A.R.E officer. The Substance Abuse and Mental Health Services Administration's (SAMHSA) National Registry of Evidence Based Programs and Practices now recognizes D.A.R.E as a viable education program. The program is funded by schools paying officers to come in to teach. It costs between $7,000 and $10,000 to hold a training session for officers entering D.A.R.E. Funding for that training is no longer available.

Senator Carroll commented that D.A.R.E is more than just the educational program. It is the relationships built between D.A.R.E officers and the students. Children return years later to tell officers how much the program meant to them.

In response to a question from Senator Carroll, Mr. Owen said since D.A.R.E's introduction in Los Angeles in 1983, it has grown and been modified. Around 2003, an evidence-based program called Keeping It Real was integrated with D.A.R.E, and now the entire program is evidence-based.

Representative Rand described his own experience with outpatient surgery for which he was given a 30-day prescription for an opioid, when he only needed it for a day and a half. He said he has heard that people can become addicted in 30 days. He added that although he commends the ODCP and its programs, he wanted to point out that the General Assembly makes these choices. These are the programs affected because of budget cuts. This administration did not fund $4.6 million, which meant programs like D.A.R.E were either lost or underfunded. He described his experience mentoring a boy who had disrespected a D.A.R.E. officer. He is now doing very well and has started his own business but had needed help to keep him on the right track.

Trooper Wilson said the choices the legislature and government make choices that affect these children and their ability to have productive lives. Many children say they swing toward drugs because they feel alone. It takes the full 10 weeks in D.A.R.E. to get children to understand what "do the right thing" means. Teachers later comment on the change in those children's behavior.

Senator Carroll commented that these programs are a priority to this administration, but as a legislature is dealing with the consequences of previous administration's decisions. The legislature has invested in treatment programs, and members agree that programs like D.A.R.E need investment. The private sector loves to get involved in sponsoring programs like D.A.R.E.

In response to a question from Representative Simpson, Trooper Wilson said state troopers do not provide D.A.R.E. in urban areas as often as rural unless requested because urban areas tend to have their own local police presence.

Representative Simpson commented that nothing is more important to Kentucky than its children. He represents an urban area in northern Kentucky, and the drug problem there is very serious. It seems as if there are a number of small programs that are not coordinated.

In response to a question from Representative Simpson, Trooper Wilson said some schools pay for D.A.R.E. books or supplies from drug court fines. The program is happy to work with all agencies. Lexington Metro is preparing to revamp its D.A.R.E program and her office will do a lot of training and work there. There is a major resurgence in schools and law enforcement for D.A.R.E.

Representative Taylor commented that what gets measured gets done. It would help to have more measurables. One of his constituents says 80 percent of his job applicants fail the drug test. It would be nice to know how many students are reached and how many reacted positively to the intervention. There needs to be an attempt to measure supply and demand for these drugs, whether provided by a doctor or street gang.

In response to a question from Representative Taylor, Trooper Wilson said D.A.R.E does not measure whether participants are on drugs. The training D.A.R.E. provides is not just about drugs, but about how to make good decisions. She does not know that there is a good way to measure that quantitatively.

Representative Taylor said he believes programs like D.A.R.E. would be more likely to be funded by both the General Assembly and private companies if results could be quantified.

Representative Mills said programs like D.A.R.E., drug courts, and health care are pro-life issues and he supports funding for them.

In response to a question from Representative Mills, Trooper Wilson said D.A.R.E. has a component for preschoolers. It is picture-based and shorter. Presenters do not talk about drugs. They address what it means to do right or wrong and teach that even though something may be legal, it still might not be good for us.

In response to a question from Representative Mills, Mr. Ingram said he is not aware of any programs directed toward child care facilities. Representative Mills commented that this is something that should be looked at. Senator Carroll said he agreed. He said he runs a child care program and, as soon as children are old enough to communicate, they are taught that there are ramifications for their actions. This is common in child development centers.

Mr. Ingram said Massachusetts and Connecticut have limited opioid prescriptions to 7 days for patients undergoing minor procedures, which might be something the General Assembly could consider.

Ms. Millspaugh said the Behavioral Health Prevention and Promotion Branch focuses on prevention and represents the state at national meetings. It funds partners that do primary prevention, which is a population-based approach. The branch funds the state's 14 community mental health centers. Within each is a regional prevention center that provides planning for substance abuse prevention work. The branch analyzes data to decide which approaches should be taken. The strategic prevention framework starts with collecting data, then building the community's capacity to fill in the deficits. As a condition of receiving funding from SAMHSA, the branch then evaluates the program. The branch uses the data to establish state priorities. The biggest issues are non-medical use of prescription drugs; opioids/heroin; underage drinking; service members, veterans and family; and suicide prevention and post-vention. Opioids are present in every community within the state. There are shared risk factors in suicide prevention and drug abuse prevention. The branch looks at the shared, underlying factors for both.

After identifying state priorities, the Behavioral Health Prevention and Promotion Branch asks communities to collect data on these issues and identify their priorities to create a plan. SAMHSA encourages them to use six evidence-based strategies: environmental; information dissemination; alternative activities that exclude alcohol, tobacco, and other drug use; education; community-based processes; and problem identification and referral. The regional prevention centers work with local communities to implement the strategies. Developing a comprehensive strategy is important. Individual efforts must be part of a bigger plan to create a social ecology in a community. Research indicates that prevention works differently from treatment. Prevention involves chipping away at community norms and is a long-term process to create shifts in the way a person thinks. The branch uses surveys of school children to identify trends.

In response to questions from Senator Carroll, Ms. Millspaugh said a lack of communication among entities is part of the problem. If someone in the school recognizes a potential problem, intervention must extend to the child's family life. It is not just about the child, it is about the messages a child receives at home and everywhere. It is unfair to put all the blame on children. It is also important that the school sends the message that it does not support these choices and behaviors.

Mr. Ingram said ODCP fosters cooperation with local ASAP groups using money set aside for opioid prevention. People from the community help them ensure a coordinated strategy is being followed rather than relying on a piecemeal approach.

In response to questions from Senator Thomas, Mr. Ingram said the opioid problem is found among all societal classes, ethnicities, and income levels. Methamphetamines are largely used by white males. Cocaine is used more often in African American communities. But overall, the drug problem crosses all races and classes. One difference is that if you are in poverty, it is harder to stop drug abuse. Ms. Millspaugh said substance abuse is driven by the community and is primarily an issue of access and opportunity. Trooper Wilson said when she asks children if they know where to get pot or heroin they usually know, no matter the demographic. They know where drugs are in their homes. Mr. Ingram said research indicates that a high percentage of women have had a trauma in childhood. If one could lower trauma levels, one could lower substance addiction. Ms. Millspaugh said that is why work needs to be coordinated. It is an epidemic and a crisis. The level of media awareness on how dangerous the substance abuse problem is can help. It creates an opportunity to work collaboratively.

Senator Clark commented that there is a greater danger of substance abuse when experiences such as trauma and assault accumulate. Often the main problem is the person's experience, not the drug.

Mr. Ingram agreed, saying his office is working on this as a larger problem that includes the other areas mentioned, such as trauma.

Senator Carroll announced that the next meeting will be held on October 13, 2016.

The meeting was adjourned at 11:56 a.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

September 12, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Monday, September 12, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julie Raque Adams, Julian M. Carroll, and Paul Hornback; and Representative Lewis Nicholls.

Guests: Stacy Phillips, Catherine York, Kathy Burke, Allen Brenzel, David Beyer, Paul Gannoe, Diana Barber, David Bailey, Eric Pelfrey, David Steele, Anne Irish, Bill Harris, Steve Beyer, Nikki James, Kevin Pangburn, Beth Kuhn, Bridget Papalia.

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

A motion was made by Senator Carroll to approve Minutes of the August 2016, meeting of the committee. Representative Nicholls seconded the motion, which passed without objection.

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

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Tad Thomas, 1700000454.

CORRECTIONS, DEPARTMENT OF:

Brian E. Elpers, 1600002324; Merry Beth Hanson, 1700000144.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Reach of Louisville, Inc., 1700000032; Med Care Pharmacy, LLC, 1700000122.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Environmental Management Institute, Inc., 1600003773; RFH, PLLC, 1700000331.

DEPARTMENT FOR PUBLIC HEALTH:

Crown Services, Inc., 1700000021.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:

David Gregory, 1700000209; David Parsons, 1700000210.

DEPARTMENT OF INSURANCE:

DK Business Enterprises, LLC, 1700000261.

EASTERN KENTUCKY UNIVERSITY:

Hardy, Carey, Chautin & Balkin, 18-085; Courtney Harley, 18-091.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Stoll Keenon Ogden PLLC, 1600003833; Stites and Harbison, 1600003834; Hurt, Deckard & May PLLC, 1600003835.

EDUCATION, DEPARTMENT OF:

Career Cruising, 1600001904; Curriculum Associates, LLC, 1600001985; Proximal Path LLC, 1700000128; Michelle Erica Deal, 1700000217; Wade William Honey, 1700000322; Central Kentucky Interpreter Referral, Inc., 1700000353; Interpreting Service of the Commonwealth, LLC, 1700000354; Kelly Stewart, 1700000370.

FAIR BOARD:

Mountjoy Chilton Medley LLP, 1600001610.

FINANCE AND ADMINISTRATION CABINET:

Multi, 1700000317.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Ensafe, Inc., 1600002252; American Engineers, Inc., 1700000237.

JUSTICE CABINET:

Kindra Kilgore, 1600003974; Karen Bremenkamp, 1600003975.

JUVENILE JUSTICE, DEPARTMENT OF:

Pharmacy Alternatives, LLC, 1600004011.

KENTUCKY COMMISSION ON MILITARY AFFAIRS:

Thomas P. Miller and Associates, LLC, 1700000197.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Mountjoy Chilton Medley, LLP, 17-010.

KENTUCKY LOTTERY CORPORATION:

Pomeroy IT Solutions, Inc., 17-002; Microsoft Corporation, 17-003.

KY PUBLIC SERVICE COMMISSION:

Harvey Economics, 1700000163; Auriga Corporation, 1700000164; BBC Research and Consulting, 1700000165; Patterson & Dewar Engineers, Inc., 1700000175; BBC Research and Consulting, 1700000176.

KY RACING COMMISSION:

Gaming Laboratories International, 1600003932.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Adtec Administrative and Technical Consulting, 1600002967.

MILITARY AFFAIRS, DEPARTMENT OF:

IIF Data Solutions, Inc., 1700000228; Jeffrey Drake Kennedy, 1700000257.

MOREHEAD STATE UNIVERSITY:

R. William Funk & Associates, 17-032; Caption Colorado, 17-033.

NORTHERN KENTUCKY UNIVERSITY:

CO Architects, Inc., 2017-158; Walter DeSocio, 2017-170; SMG d/b/a Superior Management Group, 2018-446.

PERSONNEL-OFFICE OF THE SECRETARY:

Blue & Company, LLC, 1600002639.

PSYCHOLOGISTS, BOARD OF EXAMINERS OF:

Stan Heck Psy.D, 1600003918.

TOURISM DEVELOPMENT CABINET:

Certec, Inc., 1700000318.

TRANSPORTATION CABINET:

E. Patrick Moores, 1600002075; Thelen Associates, Inc., 1700000195; Stantec Consulting Services, Inc., 1700000196; Horn and Associates, Inc., 1700000199; HDR Engineering, Inc., 1700000201; Thelen Associates, Inc., 1700000266; HDR Engineering, Inc., 1700000270; Stantec Consulting Services, Inc., 1700000295; Stantec Consulting Services, Inc., 1700000307; HMB Professional Engineers, Inc., 1700000309; WMB, Inc., 1700000311; American Engineers, Inc., 1700000328; GRW Engineers, Inc., 1700000374; DLZ Kentucky, Inc., 1700000392; Burgess and Niple, Inc., 1700000393; Aecom Technical Services, Inc., 1700000397.

UNIVERSITY OF KENTUCKY:

JRA Architects, A171070; Tekcapital, LLC d/b/a Vortechs Group, K17-208.

UNIVERSITY OF LOUISVILLE:

SOS Division-Working Buildings, LLC, 17-047.

VETERANS AFFAIRS, DEPARTMENT OF:

Multi, 1600001284; Medical Psychology Consultants, LLC, 1700000031; Med Care Pharmacy, LLC, 1700000142.

WESTERN KENTUCKY UNIVERSITY:

Thompson & Associates, 161716.

WORKFORCE INVESTMENT, OFFICE OF:

Owl, d/b/a Opportunity for Work and Learning, 1600003990.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CABINET FOR HEALTH AND FAMILY SERVICES:

Trisha Zeller, 1600003010.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Ross and Company, PLLC, 1600002431.

FINANCE AND ADMINISTRATION CABINET:

Multi, 1700000317.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

EOP Architects, PSC, 1100002570; Ross Tarrant Architects, Inc., 1200001550; Stantec Consulting Services, Inc., 1400000625; Stantec Consulting Services, Inc., 1400000625; EOP Architects, PSC, 1500000584; Omni Architects, 1500000941; Stengel Hill Architecture, Inc., 1500001000; Omni Architects, 1500001238; URS Corporation, 1500001991; URS Corporation, 1500001991; CMTA, Inc., 1600000674.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Tricord, Inc., 693.

MEDICAL LICENSURE, BOARD OF:

Multi, 1600002744.

TRANSPORTATION CABINET:

BTM Engineering, Inc., 0700003469; S&ME, Inc., 1100000552; GRW Engineers, Inc., 1100001198; QK4, 1200000162; Strand Associates, Inc., 1200000958; HDR Engineering, Inc., 1200001709; Stantec Consulting Services, Inc., 1300000367; T.H.E Engineers, Inc., 1300001555; T H E Engineers, Inc., 1300002985; J M Crawford and Associates, Inc., 1300003159; American Engineers, Inc., 1400000002; Strand Associates, Inc., 1400000729; Amec E & I, Inc., 1400001197; Burgess and Niple, Inc., 1400003102; HMB Professional Engineers, Inc., 1400003296; QK4, 1400003299; Stantec Consulting Services, Inc., 1400003673; Stantec Consulting Services, Inc., 1500000024; Thelen Associates Incorporated, 1500000038; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1500000049; Parsons Brinckerhoff, Inc., 1500000056; Cultural Resource Analysts, Inc., 1500000058; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1500000091; Thelen Associates, Inc., 1500000098; Terracon Consultants, Inc., 1500000099; HDR Engineering, Inc., 1500000224; Stantec Consulting Services, Inc., 1500002760; E. Clark Toleman Mai, 1600002167; Thurston Freeman, 1600002176; Bluegrass Valuation Group, LLC, 1600002181; Appco Appraisal Service, Inc., 1600002185; GRW Engineers, Inc., C-01232797-1; Florence and Hutcheson, C-02374489-1; Quest Engineers, Inc., C-03117944-1; Quest Engineers, Inc., C-06190563; HMB Professional Engineers, Inc., C-99005065-6.

UNIVERSITY OF KENTUCKY:

Ross Tarrant Architects, A131090; JRA Architects, A131210; GBBN, A151070.

UNIVERSITY OF LOUISVILLE:

Huron Consulting Services, LLC, 17-024.

WESTERN KENTUCKY UNIVERSITY:

THP Limited, Inc., 161806.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Hazelden Betty Ford Foundation, 1600001732.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Jefferson County Board of Education, 1600003879; Multi, 1700000014; Multi, 1700000015; Multi, 1700000200.

EARLY CHILDHOOD ADVISORY COUNCIL:

Kenton County Public Library, 1700000343.

EDUCATION, DEPARTMENT OF:

Franklin County Board of Education, 1600002946; Education Professional Standards Board, 1600002990; Logan County Board of Education, 1600003610; Nelson County Board of Education, 1600003611; Covington Independent Board of Education, 1600003626; Pulaski County Board of Education, 1600003660; Bullitt County Board of Education, 1600003775; The Hope Street Group, 1600003812; Eastern Kentucky University, 1600003897; Western Kentucky University, 1600003898; Allen County Board of Education, 1700000025; Bath County Board of Education, 1700000028; Bowling Green Independent Board of Education, 1700000029; Boyd County Board of Education, 1700000030; Covington Independent Board of Education, 1700000042; Christian County Board of Education, 1700000043; Fayette County Board of Education, 1700000045; Fleming County Board of Education, 1700000046; Franklin County Board of Education, 1700000048; Simpson County Board of Education, 1700000049; Grant County Board of Education, 1700000050; Jefferson County Board of Education, 1700000052; Henderson County Board of Education, 1700000053; Jessamine County Board of Education, 1700000055; Johnson County Board of Education, 1700000060; Kenton County Board of Education, 1700000061; Lawrence County Board of Education, 1700000062; Livingston County Board of Education, 1700000064; Magoffin County Board of Education, 1700000065; Marshall County Board of Education, 1700000066; Newport Independent Board of Education, 1700000069; Powell County Board of Education, 1700000071; Scott County Board of Education, 1700000074; Union County Board of Education, 1700000076; Southern Regional Education Board, 1700000107; Ashland Independent Board of Education, 1700000293; Erlanger Elsmere Board of Education, 1700000296; Fayette County Board of Education, 1700000298; Greenup County Board of Education, 1700000299; Henderson County Board of Education, 1700000300; Jefferson County Board of Education, 1700000301; Knott County Board of Education, 1700000302; Newport In Board of Education, 1700000303; Pike County Board of Education, 1700000304; Whitley County Board of Education, 1700000305; Campbell County Board of Education, 1700000306; Jefferson County Board of Education, 1700000352.

FISH & WILDLIFE, DEPARTMENT OF:

Kentucky Natural Lands Trust, Inc., 1700000123.

HERITAGE COUNCIL:

African American Heritage Foundation, Inc., 1700000241.

JUSTICE CABINET:

Northern Kentucky University, 1600003481; University of Louisville, 1600003482; U of L, Pediatric Forensic Medicine, 1600003488; Project Unite, 1600003567; Access To Justice Foundation, 1600003568; University of Kentucky, 1600004014.

JUVENILE JUSTICE, DEPARTMENT OF:

Clark County Board of Education, 1600003063; Louisville Metro Government, 1600003279.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Laurel County Public Library, 1700000255.

MILITARY AFFAIRS, DEPARTMENT

OF:

Multi, 1700000001.

NURSING HOME ADMINISTRATORS, BOARD OF LICENSURE FOR:

Occupations and Professions, 1600001889.

OFFICE OF HEALTH POLICY:

Kentucky Hospital Associates, 1600003684.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Big Sandy Community and Tech College, 1700000129; Hazard Community College, 1700000139; Perry County Fiscal Court, 1700000140; City of Pikeville, 1700000141; Morehead State University, 1700000143; City of Prestonsburg, 1700000146; City of Berea, 1700000148; Community Farm Alliance, 1700000170; Harlan County Fiscal Court, 1700000171; One East Kentucky, 1700000172; Owsley County Action Team, 1700000173; Kenton County Fiscal Court, 1700000268; LFUCG, 1700000308; City of Silver Grove, 1700000326; Magoffin County Fiscal Court, 1700000371; City of Hartford, 1700000372; USDA, Forest Service, 1700000373; City of Berea, 1700000425.

STATE POLICE, DEPARTMENT OF:

Kentucky Medical Service, 1600002806.

TRANSPORTATION CABINET:

Federal Highway Administration, National Highway Institute, 1600001898.

WORKFORCE INVESTMENT, OFFICE OF:

UK Research Foundation, 1600003762; Key Assets Foundation, Inc., 1600004000; Options Unlimited, Inc., 1600004037; Downs Syndrome of Louisville, 1600004038; Greater Louisville Workforce Development Board, Inc., 1700000203; Center for Accessible Living, 1700000230.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

National Center for State Courts, 1500000410.

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001216; Multi, 1500001218; Multi, 1500001218; Murray State University, 1600001535; University of Kentucky Research Foundation, 1600001536; Murray State University, 1600001537; University of Kentucky Veterinary Diagnostic Laboratory, 1600001538.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Mount Sterling Water and Sewer System, 1600002204; U. S. Department of Interior Geological Survey, 1600002259.

EDUCATION, DEPARTMENT OF:

Fayette County Board of Education, 1600001819; Pulaski County Board of Education, 1600001829; Kentucky Valley Education, 1600003106.

FAIR BOARD:

Louisville Downtown Management District, 1600004030.

FISH & WILDLIFE, DEPARTMENT OF:

City of Paducah, 1600000179.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Morgan County Fiscal Court, 1400003800; Menifee County Fiscal Court, 1500001849; Menifee County Fiscal Court, 1500001851.

WORKFORCE INVESTMENT, OFFICE OF:

University of Kentucky College of Education, 1600002142; Bluegrass Area Development District, 1600004021; Bluegrass Area Development District, 1600004024.

AUGUST 2016 DEFERRED ITEMS:

CABINET FOR HEALTH AND FAMILY SERVICES:

Conliffe Sandmann and Sullivan, 1700000081. Stacy Phillips and Catherine York discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY:

Kerrick Bachert Law Firm, 161827. A motion was made by Senator Wise to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DENTISTRY, BOARD OF:

Brian Fingerson Rph, Inc., 1700000105. David Beyer discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY:

Murphy Graves & Trimble, 18-090. Paul Gannoe discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Government Technology Advisors, LLC, 17-006. Diana Barber and David Bailey discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

TRANSPORTATION CABINET:

Michael Baker International, Inc., 1700000260. Eric Pelfrey, David Steele, and Anne Irish discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

UNIVERSITY OF KENTUCKY:

Cook Ross, Inc., K17-209. Bill Harris and Steve Beyers discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF:

Division Substance Abuse Department of Mental Health Mental Retardation, 1600001329. Nikki James and Kevin Pangburn discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Nicholls seconded the motion, which passed.

WORKFORCE INVESTMENT, OFFICE OF:

Bluegrass Area Development District, 1700000412; Bluegrass Area Development District, 1700000414. Beth Kuhn and Bridget Papalia discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed with Senator Hornback voting no.

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

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

University of Louisville Hospital, 1600001706. Kathy Burke and Allen Brenzel discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

EXEMPTION REQUESTS:

KENTUCKY DEPARTMENT OF AGRICULTURE:

The Kentucky Department of Agriculture requested an exemption from the two year contracting restrictions for six grant recipients for the purpose of researching and promoting specialty crop farming techniques in Kentucky; 100% Federal Funds. A motion was made by Senator Carroll to grant the request to September 30, 2019. Senator Hornback seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET, DEPARTMENT FOR ENERGY DEVELOPMENT AND INDEPENDENCE:

The Energy and Environment Cabinet, Department for Energy Development and Independence, requestsedan exemption from the two year contracting restrictions for projects which are funded through U.S. DOE Federal grants; 100% Federal Funds. A motion was made by Senator Carroll to grant the request to September 30, 2019. Senator Hornback seconded the motion, which passed without objection.

There being no further business, the meeting was adjourned at 2:06 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September Meeting

September 13, 2016

Call to Order and Roll Call

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 13, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Becky Gilpatrick, Kentucky Higher Education Assistance Authority; Lindsay Hughes Thurston, Office of the Secretary of State; Beau Barnes, Teachers' Retirement System; Gary Morris, Steven Nave, Regina Ritchey, Department of Revenue; Scott Majors, Board of Physical Therapy; Nicole Sergent Biddle, Larry Disney, Real Estate Appraisers Board; Mary Badami, Nicole Sergent Biddle, Board of Licensure for Marriage and Family Therapy; Kim Coy DeCoste, Matt James, Board of Licensed Diabetes Educators; Dan Figert, Gabe Jenkins, Jeff Ross, Department of Fish and Wildlife Resources; Todd Allen, Kevin Brown, Department of Education; Kevin Brown, Chad Collins, Kentucky High School Athletic Association; Richard Linio, Morehead State University; Stephen Humphress, Melissa McQueen, Department of Alcoholic Beverage Control; Marni Gibson, Brian Raley, Department of Financial Depository Institutions; Holly Ross, Tammy Scruggs, Jessica Sharpe, Gary Stephens, Department of Financial Institutions; Sherry Culp, Kristi Gentry, Phyllis Sosa, Department for Aging and Independent Living; Mary Sparrow, Child Support Enforcement; Dr. Dale Bertram, Mike Rankin, Interactive Continuing Education Training.

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

The Administrative Regulation Review Subcommittee met on Tuesday, September 13, 2016, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Educational Excellence Scholarship Program

11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) program. Becky Gilpatrick, director of student aid, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 3, 4, 7, 9, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

OFFICE OF THE SECRETARY OF STATE: Occupational License Fees

30 KAR 7:010. Standard form for occupational license fee return. Lindsay Hughes Thurston, assistant secretary of state, represented the office.

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

102 KAR 1:165. Surviving children's benefits. Beau Barnes, deputy executive secretary and general counsel, represented the system.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 12 to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:290. Disability retirement application, review, and examinations.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and the STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 6 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:320. Qualified domestic relations orders.

In response to questions by Co-Chair Harris, Mr. Barnes stated that a Qualified Domestic Relations Order (QDRO) was used to determine the disposition of retirement assets in situations of divorce. The system did not receive notice of any concerns related to the fee for processing the QDRO. Because processing the QDRO was an extensive process, the fee was fair.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend Sections 2, 3, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend material incorporated by reference to add edition dates and make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: Office of Income Taxation: Income Tax; General Administration

103 KAR 15:180 & E. Kentucky new markets development program tax credit. Gary Morris, policy advisor, and Regina Ritchey, section supervisor, represented the department.

GENERAL GOVERNMENT CABINET: Board of Physical Therapy: Board

201 KAR 22:045. Continued competency requirements and procedures. Scott Majors, executive director, represented the board.

In response to a question by Co-Chair Harris, Mr. Majors stated that proof of compliance with continued competency requirements was required biennially in odd-numbered years. Before this amendment, a credential holder was able to request an extension for submitting the proof of compliance without a deadline for filing the request. The lack of a deadline sometimes resulted in the board having to take retroactive action pertaining to extension requests; therefore, the board submitted this amendment to establish a deadline to provide adequate time for the credential holder to submit the justification for an extension and adequate time for the board to process the request.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 3 to revise the edition date of the Exemption or Extension for Completion of Continued Competency Form; and (3) to update the form: (a) for consistency with the administrative regulation; and (b) to clarify the two (2) different deadlines for hardship and nonhardship extension application requests.

Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board

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

In response to questions by Representative Belcher, Mr. Disney stated that certified and licensed real estate appraisers were required to have at least a four (4) year, postsecondary degree, financed without board assistance. After the four (4) year, postsecondary degree, applicants were required to obtain 200 to 300 hours of real estate-specific coursework, also financed without board assistance. There were federal requirements for training and experience, and applicants were required to pass an examination. The examination fee was $200, and applicants needed the twelve (12) dollar manual. There was also a forty (40) dollar federal registration fee. Kentucky maintained approximately 1,500 credentialed or licensed real estate appraisers and had not experienced shortages. The changes to these requirements may help access because required supervision could come from outside of Kentucky.

In response to a question by Co-Chair Harris, Mr. Disney stated that the credentialing or licensure examination was developed by a nonprofit organization established by Congress. The examination was then subject to oversight by the FDIC.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) comply with the drafting requirements of KRS Chapter 13A; (2) clarify that the supervising appraiser shall have been a state certified real property appraiser for at least three (3) years; and (3) clarify that a first-time applicant shall attend the board-approved course in supervision-training practices prior to being issued an associate license. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Marriage and Family Therapists: Board

201 KAR 32:030. Fees. Mary Badami, chair, and Nicole Biddle, assistant attorney general, represented the board. Dr. Dale Bertram, educational coordinator, and Mike Rankin, marriage and family therapist, represented Interactive Continuing Education Training and appeared in support of this administrative regulation.

In response to a question by Representative Belcher, Dr. Bertram stated that this administrative regulation did not affect pastoral counselors.

In response to a question by Co-Chair Harris, Ms. Badami stated that there had been concern from stakeholders regarding the fee structure. The previous fee structure was inequitable in some situations; therefore, after examining the fee structures of other states, the board developed this new fee structure that was intended to be more equitable to all groups. Some fees had increased, but most were in effect reduced.

A motion was made and seconded to approve the following amendments: (1) to add a citation to the RELATES TO paragraph; (2) to amend Section 7 to clarify that domestic violence training shall be completed within three (3) years of licensure as required by 201 KAR 32:060; (3) to amend Section 8 to simplify the fee structure for continuing education workshops with a fee of: (a) fifty (50) dollars per day for six (6) workshops or less offered a single time; (b) $125 per day for seven (7) or more workshops offered a single time; and (c) $250 for a single workshop offered unlimited times in a calendar year; (4) to amend Sections 3, 4, 5, 7, 8, and 9 to comply with the drafting requirements of KRS Chapter 13A; (5) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to update the response to question (9) to reflect the new lengths of the workshops; and (6) to update the Continuing Education Program Provider Approval Application to include the updated fee structure. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience. Kim DeCoste, chair, and Matt James, assistant attorney general, represented the board.

In response to questions by Senator Kerr, Ms. DeCoste stated that the board did not intend to weaken requirements. Kentucky had access problems, especially in rural areas that tended to have high rates of diabetes. The agency amendment strengthened requirements by requiring supervision during diabetes education, rather than just meeting with the supervisor. Diabetes education in Kentucky was improving, and Kentucky had many dedicated diabetes educators.

In response to questions by Co-Chair Harris, Ms. DeCoste stated that the board did not require an examination for licensure. There was an examination developed by a national certification board; however, it was not appropriate for an entry-level diabetes educator. Kentucky was the first state to develop a diabetes educator licensure program, and the national examination was expensive. With appropriate supervision, Kentucky was able to license high-quality diabetes educators. Licensed diabetes educators already had a healthcare background, such as a nurse or dietician, but a licensed diabetes educator was able to reach beyond the boundaries of those licensure programs into more in-depth matters related to diabetes.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to establish that: (a) prior to the apprentice applying for licensure, the supervisor shall observe the apprentice providing diabetes education to a patient while the supervisor is physically present in the same room on at least two (2) separate occasions, for a combined total of at least four (4) hours, two (2) hours of which shall have occurred within the last twelve (12) months preceding licensure application; and (b) the apprentice shall be responsible for obtaining any permissions, releases, or waivers required by law in order for the supervisor to observe the apprentice providing diabetes education to a patient; and (2) to amend the Supervised Work Experience Report, incorporated by reference in Section 4, to clarify that the assessment referenced is for entry-level diabetes educators. 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 1:015. Boat and motor restrictions. Dan Figert, assistant wildlife director; Gabe Jenkins, big game coordinator; and Jeff Ross, program manager, represented the department.

301 KAR 1:201. Taking of fish by traditional fishing methods.

In response to questions by Representative Belcher, Mr. Ross stated that fishing requirements were determined based on species, the local ecosystem, and angler behaviors. Because of the delicate balances involved, the department established specific requirements for each local ecosystem in order to appropriately manage fish populations. The department limited overly frequent amendment of fishing requirements to avoid angler confusion.

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

Game

301 KAR 2:132. Elk quota hunts, elk depredation permits, landowner cooperator permits, and voucher cooperator permits.

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, general counsel, Board

of Education, and Chad Collins, general counsel, Kentucky High School Athletic Association, represented the department.

In response to questions by Co-Chair Harris, Mr. Collins stated that there had not been a major problem with middle school athletics; however, middle school administrations requested consistency regarding education-based athletics. Middle school athletic venues were an extension of the classroom and should have standards. The required dead period between June 25 and July 9 was an effort to reduce pressure for constant athletic involvement, especially in the current sports-specialization atmosphere. The dead period, which was consistent with the dead period for high school athletics, gave student athletes, administrators, and families down time to vacation or rest from the pressure of athletic involvement.

In response to a question by Representative Belcher, Mr. Collins stated that during the dead period, school athletic facilities were closed and schools were not allowed to require mandatory athletic practice or activities. Informal practices were not prohibited; however, students could not be penalized for failure to participate during the dead period.

A motion was made and seconded to approve the following amendments: (1) to establish definitions; (2) to amend Section 4(2)(c) to establish that a "bona fide accrediting agency" for CPR training programs shall be approved by the KHSAA based upon industry standards; (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A and to make technical corrections; and (4) to amend material incorporated by reference to make conforming changes and technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Learning Results Services

703 KAR 4:041. Repeal of 703 KAR 4:040.

Office of Instruction

704 KAR 3:342. Repeal of 704 KAR 3:340.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:381. Repeal of 804 KAR 4:380. Stephen Humphress, general counsel, and Melissa McQueen, staff attorney, represented the department.

804 KAR 4:390. License renewals.

A motion was made and seconded to approve the following amendment: to amend Section 7 to correct the licensure term for statewide and out-of-state licenses to January 1 through December 31 of the same year rather than the following year. Without objection, and with agreement of the agency, the amendment was approved.

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

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to correct edition dates for the revised forms; and (2) to amend the Basic Application form to: (a) correct a statutory reference; (b) require that the local ABC administrator's name be printed below his or her signature; and (c) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:410 & E. Special applications and registration forms incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) delete outdated links to the product registration forms; (2) to amend Section 3 to include references to two (2) new forms; (3) to amend Section 4 to correct edition dates for the revised forms; (4) to amend the Special Temporary License Application to require that the local ABC administrator's name be printed below his or her signature; (5) to amend the Supplemental License Application to: (a) correct the amount of the NQ3 Retail Drink Supplemental Bar License fee from $320 to $310; and (b) require that the local ABC administrator's name be printed below his or her signature; and (6) to amend the ABC Retailer Sampling Notification form to correct a statutory reference. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Division of Depository Institutions: Administration

808 KAR 1:081. Repeal of 808 KAR 1:080 and 808 KAR 1:100. Marni Gibson, director, Division of Depository Institutions; Brian Raley, acting deputy commissioner; Tammy Scruggs, director, Division of Nondepository Institutions; and Jessica Sharpe, general counsel, represented the department.

808 KAR 1:160. Fees for services rendered to banks and trust companies.

In response to questions by Co-Chair Harris, Mr. Raley stated that there were some stakeholder concerns regarding the fees. The division had used an internal fee schedule since the 1980s. The authorizing statute required the fee to be adequate to recoup the division's processing costs. The fees were comparable to other states.

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

Division of Nondepository Institutions: Finance Charges

808 KAR 4:021. Repeal of 808 KAR 4:020.

Division of Depository Institutions: Multibank Companies

808 KAR 11:011. Repeal of 808 KAR 11:010.

Division of Non-Depository Institutions: Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:021. Licensing and registration.

In response to questions by Co-Chair Harris, Mr. Raley stated that the FBI background checks required by this administrative regulation and 808 KAR 12:055 had been required since 2009 to safeguard the industry. Mortgage loan originators were required by statute to submit annual FBI background checks. Mortgage loan processors were only required to submit an FBI background check at their hiring, not annually. Banks and credit unions were chartered separately from nondepository institutions. Nondepository institutions, including each branch if applicable, were required to be licensed. Stakeholders had not expressed concern regarding the FBI background checks.

808 KAR 12:055. Uniform standards for mortgage loan processor applicant employee background checks.

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 Section 3 to add a cross reference to subsection (4) of the administrative regulation that outlines what is not a conviction for consistency with House Bill 40 from the 2016 Regular Session; and (3) 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.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Aging and Independent Living: Division of Operations and Support: Aging Services

910 KAR 1:210. Kentucky long-term care ombudsman program. Sherry Culp, long-term care ombudsman; Kristi Gentry, executive assistant; and Phyllis Sosa, staff assistant, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 8, 9, 11, 13, and 15 to correct citations and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Income Support: Child Support Enforcement: Family Support

921 KAR 1:420. Child support distribution. Mary Sparrow, policy analyst, represented the department.

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

OFFICE OF THE ATTORNEY GENERAL: Office of Consumer Protection: Office

40 KAR 2:145. Funeral planning declaration form.

TRANSPORTATION CABINET: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

MOREHEAD STATE UNIVERSITY: Board of Regents: Board

755 KAR 1:080. Capital construction procedures.

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

803 KAR 2:412. Fall protection.

The Subcommittee adjourned at 2:10 p.m. until October 11, 2016, at 1 p.m.

GOVERNMENT NONPROFIT CONTRACTING TASK FORCE

Minutes of the 3rd Meeting of the 2016 Interim

September 7, 2016

Call to Order and Roll Call

The 3rd meeting of the Government Nonprofit Contracting Task Force was held on Wednesday, September 7, 2016, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Chair; Representative Russ A. Meyer, Co-Chair; Senators Danny Carroll, and Stephen West; Representatives Dennis Horlander, and Addia Wuchner, Promod Bishnoi, Cyndee Burton, Danielle Clore, Samantha Davis, Andrew English, Tim Feeley, Robert Jones, Robin Kinney, Judy Piazza, and Michelle Sanborn.

Guests: Stacy Phillips, Cabinet for Health and Family Services, Linda Harney, Cabinet for Health and Family Services, Joan Graham, Finance and Administration Cabinet, Ron Parritt, Kentucky State Police, Savannah Wiley, Kentucky State Police, and Nikki James, Kentucky Department of Corrections.

LRC Staff: Judy Fritz, Van Knowles, Daniel Carter, and Jay Jacobs.

Representative Wuchner moved to approve the August 22, 2016 meeting minutes. Tim Feeley seconded the motion. The motion carried with a voice vote.

OMB Circulars and Uniform Guidance – Experience and Perspective from State Agencies

Stacy Phillips, Procurement Director with the Cabinet for Health and Family Services (CHFS), stated that much of the Uniform Guidance centers around the question of whether an agreement is between an agency and a subrecipient or contractor, but it only applies when the contract includes federal funds. Every CHFS contract involving federal funds will be with either a subrecipient or contractor under Uniform Guidance. Some CHFS contracts will never be subject to Uniform Guidance regulations. These include OIG, Medicaid, and Health Benefit Exchange programs, because those programs are executed in-house.

Mrs. Phillips included some background information about Uniform Guidance. The federal Office of Management and Budget (OMB) implemented Uniform Guidance on December 26, 2014. CHFS proactively reviewed the new policies by attending webinars and meetings held by different federal offices and nonprofit organizations. Uniform Guidance is the abbreviated name of 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and its Subparts.

Uniform Guidance offers two different types of awards: contracts and grants. Mrs. Phillips indicated that 99.9 percent of the funds CHFS deals with are considered grants.

Linda Harney, Certified Public Accountant with the Cabinet for Health and Family Services, described the Uniform Guidance and its subparts: Subpart A includes the definitions used within the regulation; Subpart B outlines general provisions that provide detailed information when the regulations apply; Subpart C discusses federal responsibilities and pre-award requirements; Subpart D focuses on the rules of receiving federal funds; Subpart E covers cost principles; and Subpart F outlines the audit requirements. As a recipient of grant awards, CHFS is most concerned with Subparts D, E, and F.

Mrs. Harney gave an overview of CHFS's federally funded agreements and described the differences between subrecipients and contractors. The provisions of 2 CFR 200.330 establishes the criteria that determines whether an awardee is a subrecipient or a contractor. If the awardee is a subrecipient, characteristics which support the classification of the entity as a subrecipient include: the entity determines who is eligible to receive what federal assistance; the entity has its performance measured in relation to whether objectives of a federal program were met; the entity has responsibility for programmatic decision making; the entity is responsible for adherence to applicable federal program requirements specified in the federal award; and in accordance with its agreement, the entity uses the federal funds to carry out a program for a public purpose specified in the authorizing statute. A contractor provides goods and services within normal business operations, provides similar goods or services to many different purchasers, and the goods and services provided are ancillary to the federal program. Determining whether an awardee is a subrecipient or a contractor is necessary to comply with the auditing requirements outlined in the Uniform Guidance. Before procuring contracts for July 1 of this year, CHFS reviewed every contract to ensure that proper classifications were made.

Contractors and subrecipients are not subject to the same audit requirements under Uniform Guidance. If the agreement is with a contractor, the state agency and the contractor are not subject to the audit requirements in the Uniform Guidance. However, if the agreement is between a state agency and a subrecipient, both the state agency and the subrecipient must comply with the audit requirements.

The cost principles subpart of Uniform Guidance outline what costs are allowable for federal reimbursement and how many federal dollars should be spent. It requires state agencies to fund indirect costs that are related to the federal program. CHFS includes boilerplate language in its contracts that allow for federal indirect cost reimbursement pursuant to Uniform Guidance regulations.

Mrs. Phillips stated that CHFS cabinet level staff members work closely with the departments to ensure all federally mandated requirements are addressed and enforced. The boilerplate language in all of its contracts addresses Uniform Guidance requirements so the cabinet will be in compliance.

In response to a question by Mrs. Clore, Mrs. Phillips stated that 99.9 percent of the contracts are grants, not to subrecipients.

In response to a question by Mrs. Clore, Mrs. Harney stated that 80 percent of the money CHFS receives is from the federal government. Because the percentage of federal aid is high, the cabinet follows the Uniform Guidance on all contracts that have federal dollars. Mrs. Phillips added CHFS follows KRS Chapter 45A for contract procurement.

In response to a question by Mrs. Clore, Mrs. Phillips stated the biggest disadvantage of mirroring Uniform Guidance for contracts with state dollars would be cost, because agencies would have to reimburse awardees for indirect costs.

In response to a question by Mr. Jones, Mrs. Harney stated that, if there is an existing federally approved rate, it will apply for all federal dollars paid out under that contract.

In response to a question by Representative Wuchner, Mrs. Harney stated that mirroring Kentucky's statutory language with the definitions in Uniform Guidance would be helpful. CHFS is mirroring their contract terms with Uniform Guidance definitions in their contracts. Mrs. Phillips added that each cabinet would have to work with the Finance and Administration Cabinet to make sure the statutory language is consistent.

Discussion of Advantages and Disadvantages of mirroring OMB Guidance Regulations in Kentucky

Representative Wuchner would like the state statutory language to mirror the terms and definitions used in the Uniform Guidance.

Mrs. Clore would like the state to follow the Uniform Guidance in regards to paying indirect costs, saying it would be beneficial to streamline reporting and data collection.

Contract Processes in Kentucky

Joan Graham, Procurement Director with the Finance and Administration Cabinet gave an overview of the contract process in Kentucky.

The Office of Procurement Services is divided into four general divisions to assist agencies with purchasing and procurement questions. Nonprofit contracts typically fall under the Professional Services and Training Division. The Office of Procurement Services has boilerplate language for Memoranda of Agreement, Personal Service Contracts, and University Contracts for agencies to use.

There are three types of contracts that are handled in Professional Services: Personal Service Contracts, Memoranda of Agreement, and University Contracts. Personal Service Contracts are competitively negotiated through the requests for proposal process; Memoranda of Agreement are non-competitive; and University Contracts are contracts between a state agency and a university. Nonprofit contracts with the state are usually Memoranda of Agreement because the nonprofits are usually performing work that is a governmental function under KRS 45A.690 (1)(d). If a nonprofit is not carrying out a governmental function then the nonprofit would enter into the competitive process and the contract would be a Personal Service Contract.

An overview of the typical agency contract process was given as well as the required contract documentation needed from the nonprofits. Each agency has a slightly different internal contracting process, but they try to maintain a consistent process once the contract reaches the Finance and Administration Cabinet. The cabinet would like to see an option for some of the required documents to be uploaded to the vendor customer record in eMARS. The agency could use the vendor customer record and retrieve the documents contained in the vendor record.

An explanation of the approval process was given as well as details of the focus of the Government Contract Review Committee as it looks at the contracts.

In response to a question by Mrs. Burton, Mrs. Graham stated that "agencies" include any state agency that has a need for a programmatic service.

The scope of work to be done is written into the agreement and is a total manifestation of everything agreed upon by the agency and the nonprofit. The scope of work should be fully explained in simple language; all terms should be explained and defined; acronyms and department lingo should be avoided; usage of the word "shall" should be utilized when requirements are mandatory; and the word "may" should be used when requirements are optional or discretionary.

In response to questions by Mrs. Clore, Mrs. Graham stated that if the contract involves a governmental function then the agency is not required to place it for bid and that eMARS does not have the capability to allow nonprofits to upload documents. In 2018, a future update to eMARS may allow for this functionality. Mrs. Graham stated that not all agencies use eMARS, but it would be helpful if all agencies did.

In response to a question by Mrs. Clore, Mrs. Graham stated that her office does not provide information for grants but the Finance and Administration Cabinet may provide some guidance.

In response to questions by Representative Wuchner, Mrs. Graham stated that in 2009 legislation exempted nonprofits that provide a governmental function from the competitive bid process. Mrs. Graham suggested that competitive bidding is a good practice in contracting for any service, but state agencies do not have to place contracts for nonprofits for bid unless they are not providing a governmental function.

In response to a question by Senator Carroll, Mrs. Graham stated that she does not know the policy behind the legislative change.

In response to a question by Mr. English, Mrs. Graham stated that it is a struggle within the Finance and Administration Cabinet to determine whether a contract is for a governmental function and that they rely on the agencies to make that determination.

In response to a question from Mrs. Clore, Mrs. Graham stated that if a contract with an error was overlooked by the cabinet, a member of the Government Contract Review Committee could pull and review the contract.

Savannah Wiley, Procurement Officer with the Kentucky State Police (KSP), stated that their scope of dealing with nonprofit contracts is very small. KSP deals with Universities in a Memorandum of Agreement format and the funds are federal grants and agency funds.

Nikki James, Internal Policy Analyst with the Department of Corrections, gave an overview of its internal practices. The program requirements determine the need for services and the scope of work. Pricing is negotiated when applicable and some services are provided at a flat fee. An issue the department encounters with vendors is no receipt of original documents. Some nonprofits want to sign and scan the documents, but the program requires that the document the department keeps must have the original signature. Mrs. James acknowledged there are a lot of reviews to get a contract approved and the process is time consuming.

In response to a question by Mrs. Clore, Mrs. James stated that there are a lot of processes that could be streamlined. Being able to add documents to the customer vendor file in eMARS would be helpful.

In response to a question by Mr. Jones, Mrs. James stated that it would be helpful for nonprofits that are also special governmental units, to be able to retrieve documents from the Department of Local Government.

Representative Wuchner stated that it would be beneficial for procurement officers to get together and to work out a plan to streamline the process and present that plan to the task force at a future meeting. Mrs. Clore stated that she thinks nonprofits should be included in those discussions.

In response to a question by Mrs. Clore, Mr. Jones stated that there is a complete set of documents for special governmental units that are filed with the Department of Local Government. Even though some of the same documents are filed and maintained in a database with the department, nonprofits have to fill out the forms again when dealing with other agencies for contractual purposes.

Discussion of Advantages and Disadvantages of mirroring OMB Guidance Regulations in Kentucky

Representative Wuchner stated that she would like to understand the change in the KRS that no longer requires nonprofits to compete if they provide a governmental function.

Mrs. Clore stated that the ability to add a document to eMARS would be helpful and she further stated that all agencies should be required to use EMARS.

Senator Wise said that the next task force meeting will be Monday, September 26th, 2016, at 11 a.m.

A copy of the PowerPoint presentation and other meeting materials are a part of official record in the Legislative Research Commission Library. There being no further business, the meeting was adjourned at 2:28 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

September 7, 2016

Call to Order and Roll Call

The 8th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 7, 2016, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson; Representatives Mike Denham, Tom McKee, Terry Mills, Jonathan Shell, and James Tipton.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy; Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy; Dr. Wayne Lewis, Executive Director of Educational Programs, Kentucky Education and Workforce Development Cabinet; Darlene Hoover, Assistant Director, Kentucky Cabinet for Health and Family Services, Department for Community Based Services, Division of Child Care; Brigitte Blom Ramsey, Early Childhood Advisory Council; and Dr. Ruth Ann Shepherd, Division Director, Kentucky Cabinet for Health and Family Services, Department for Public Health, Division of Maternal and Child Health.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Marielle Manning.

Upon motion made by Representative Tipton and seconded by Senator Gibson, the August 3, 2016 minutes were approved by voice vote and without objection.

Governor's Office of Agricultural Policy

Mr. Warren Beeler, Executive Director, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy, presented projects receiving the Agricultural Development Board approval at its August 2016 meeting. Those included animal show facility improvements, Youth Heifer Chain Program, grain bin rescue equipment, hydroponic high school greenhouse, butcher shop expansion, Viticulture and Enology Extension Program, on-farm investments, Deceased Farm Animal Removal Program, shared-use equipment, and major statewide or regional projects.

Representative Stone mentioned the new Kentucky Agricultural Development Board member, Stewart Hughes, representing beef cattle producers and grain farmers across the Commonwealth.

Responding to a question from Representative McKee, GOAP officials explained out of the 757 loans approved by the Agriculture Development Board, $101 million has been loaned or approved, of which only five loans have lost out for less than one percent.

The committee received reports on six regional projects: (1) McLean County 4-H, approved by the board for $6,325 in McLean County funds to install energy efficient LED lights in the 4-H Activities Center at Myers Creek Park and construct an open shed onto the Dubin Pavilion Animal Show facility; (2) Taylor County Cattleman's Association, Inc., approved by the board for $10,000 in Taylor County funds for its beef and dairy youth heifer chain program; (3) Green County Fire and Rescue, Inc., approved by the board for $1,100 in Green County funds to purchase grain bin rescue equipment; (4) Henry County Board of Education, approved by the board for $5,000 in Henry County funds to construct a hydroponic greenhouse at Henry County High School; (5) Boones Abattoir, Inc., approved by the board for up to $329,301 in state and multi-county funds for an addition to its slaughter facility, meat processing plant and retail store; (6) University of Kentucky Research Foundation, approved by the board for $416,301 in State funds across two years to support the Kentucky Viticulture and Enology Extension Program.

The GOAP representatives described two funding denials: (1) Kentucky Hemp Research Foundation, Inc., turned down for $296,157 in multiple County funds and $861,180 in State funds for various research projects and educational programs. Adequate research being conducted by eight universities regarding 15 projects were mentioned as reasons for denial; (2) Pumpkin Vine Creek Farm, LLC, turned down for $500 in Madison County funds and $82,500 in State funds for upgrading their kenaf processing equipment. Lack of producer impact was mentioned as reason for denial.

GOAP officials answered questions about the six regional projects received by the board in August.

Representative Mills mentioned Dale Dobson in regards to the grain bin rescue equipment in the Green County Fire and Rescue, Inc. project.

Representative Mills mentioned that Marion County people use Boones Abattoir, Inc. GOAP officials commented that people as far away as Carter County travel to receive meats from Boones Abattoir, Inc.

Representative Denham moved for a resolution honoring the service of former Agricultural Development Board member Karen Curtis. Representative McKee seconded the motion. The motion passed by voice vote and without objection.

Responding to Senator Gibson, GOAP officials further explained the denial for the University of Kentucky Research Foundation project. GOAP officials said the board decided there is adequate hemp research currently being conducted and eight universities are doing 15 to 18 research projects on hemp. Senator Gibson commented that he hopes this funding denial does not jeopardize education and continuance of hemp production.

Responding to Representative Stone, GOAP officials confirmed that $861,180 was requested in state funds for the University of Kentucky Research Foundation project.

Governor's Office of Early Childhood

Dr. Wayne Lewis, Executive Director of Educational Programs, Kentucky Education and Workforce Development Cabinet, Darlene Hoover, Assistant Director, Kentucky Cabinet for Health and Family Services, Department for Community Based Services, Division of Child Care, Brigitte Blom Ramsey, Early Childhood Advisory Council, and Dr. Ruth Ann Shepherd, Division Director, Kentucky Cabinet for Health and Family Services, Department for Public Health, Division of Maternal and Child Health, introduced themselves.

Brigitte Ramsey discussed the funds provided by the Tobacco Master Settlement Fund to early childhood education.

Darlene Hoover explained various childhood assistance programs and the Kentucky All STARS program.

Responding to a question from Representative Stone, Darlene Hoover said that children must obtain quality indicators and maintain those indicators in order to keep the STAR level in the STARS program. Dr. Wayne Lewis explained the Race to the Top- Early Learning Challenge grant was used to create a new system, the Kentucky All STARS program.

Dr. Ruth Ann Shepherd explained the Kentucky Health Access Nurturing Development Services (HANDS) program.

Responding to Representative Tipton, Dr. Ruth Ann Shepherd explained that 25 percent of the families in the HANDS program do have substance abuse. There is no direct substance abuse treatment provided by the HANDS program. Darlene Hoover explained that, in the childcare programs, providers receive training in health and safety issues that give providers the resources to help the families.

Representative McKee commented that former Governor Patten had a large interest in early childhood and how 25 percent of the Master

Settlement Funds go towards early childhood.

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

2017 Prefiled Bills

BR22 - Representative Brent Yonts
(6/15/2016)
AN ACT relating to crimes and punishments.
Amend KRS 532.090 to establish gross misdemeanors as a new category of misdemeanor offense and set penalty range; amend KRS 439.340 to make parole mandatory for Class D offenders who are not violent offenders or sexual offenders and have not committed any violent acts while incarcerated; amend KRS 218A.135 to require that certain findings specific to the defendant be utilized in pretrial release decisions; amend KRS 532.080 to make persistent felony offender sentencing discretionary; amend KRS 534.070 to increase jail credit for fines; amend KRS 530.050 to create three-tiered offense of nonsupport; amend KRS 24A.110 to ensure that jurisdiction over gross misdemeanor cases is in the Distric Court; amend various sections of the Kentucky Revised Statutes to conform; repeal KRS 431.060.
(Prefiled by the sponsor(s).)

BR35 - Representative Jerry Miller
(8/22/2016)
AN ACT relating to the filing deadline for candidates running for a seat in the General Assembly.
Amend KRS 118.165 to change the filing deadline for candidates for offices to be voted for by the electors of more than one county and for members of Congress and members of the General Assembly from the last Tuesday in January, to the Tuesday prior to the third Monday in January; amend KRS 117.055 and 118.215 to conform.
(Prefiled by the sponsor(s).)

BR58 - Representative Michael Lee Meredith, Representative Jim DeCesare
(6/28/2016)
AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.
Authorize to the Department of Veterans' Affairs federal funds and bond funds in fiscal year 2016-2017 for the construction of the Bowling Green Veterans Center nursing home; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the general fund surplus account or the budget reserve trust fund; APPROPRIATION; EMERGENCY.
(Prefiled by the sponsor(s).)

BR59 - Representative Daniel Elliott(8/1/2016)
AN ACT relating to prescriptive authority for physician assistants.
Amend KRS 311.856 and 311.858 to permit physician assistants to prescribe and dispense controlled substances.
(Prefiled by the sponsor(s).)

BR64 - Representative Kevin Bratcher
(9/21/2016)
Direct the Legislative Research Commission to establish a task force to develop a strategy and funding mechanism to provide care for medically fragile adults with intellectual and developmental disabilities and report findings for referral to the appropriate committees.
(Prefiled by the sponsor(s).)

BR66 - Representative Daniel Elliott
(9/22/2016)
AN ACT relating to retirement benefits for legislators.
Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2017; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2017; provide that current and future legislators shall only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2017.
(Prefiled by the sponsor(s).)

BR68 - Representative Sannie Overly
(7/13/2016)
AN ACT relating to credit freezes for consumers.
Create a new section of KRS 367.363 to 367.365 to define "protected person," "record," "representative," and "sufficient proof of authority"; require a consumer reporting agency to place a security freeze on a protected person's record or report upon proper request by a representative; require the freeze to be placed within 30 days of receiving the request; set forth when the credit reporting agency is required to remove the freeze; allow the credit reporting agency to charge a fee under certain circumstances; establish penalties for violations.
(Prefiled by the sponsor(s).)

BR69 - Senator Mike Wilson
(7/15/2016)
AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.
Authorize to the Department of Veterans'

Affairs Federal Funds and Bond Funds in fiscal year 2016-2017 for the construction of the Bowling Green Veterans Center nursing home; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the General Fund Surplus Account or the Budget Reserve Trust Fund Account; APPROPRIATION; EMERGENCY.
(Prefiled by the sponsor(s).)

BR71 - Representative Regina Bunch
(7/19/2016)
AN ACT relating to family member visitation rights.
Repeal and reenact KRS 405.021 to grant visitation to family members if it is in the child's best interest based on listed factors.
(Prefiled by the sponsor(s).)

BR73 - Representative Rick Nelson
(7/15/2016)
AN ACT relating to a tax credit for volunteer firefighters.
Create a new section of KRS Chapter 141 to establish a $1,000 refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit and to make technical corrections.
(Prefiled by the sponsor(s).)

BR74 - Representative Rick Nelson
(8/5/2016)
AN ACT relating to promise zone tax incentives.
Amend KRS 139.570 to allow additional compensation for sellers in the promise zone; create a new section of KRS Chapter 141 to allow an income tax credit for qualified employees equal to the individual income tax on wages earned in the promise zone, not to exceed $2,400; allow an income tax credit for qualified employers in an amount equal to $100 for each employee working within the promise zone; require reporting by the Department of Revenue to the Legislative Research Commission; amend KRS 141.0205 to order the new tax credits; create a noncodified section to set forth the purpose of the Act and describe actions previously taken by the federal government.
(Prefiled by the sponsor(s).)

BR75 - Representative Joseph Fischer, Representative John Carney, Representative Jim DuPlessis, Representative Dennis Horlander, Representative Kenny Imes, Representative Stan Lee, Representative Bart Rowland, Representative James Tipton, Representative Russell Webber
(7/6/2016)

AN ACT relating to hate crimes.
Amend KRS 532.031, relating to an offense committed as a result of a hate crime, to include offenses committed against an individual because of the individual's actual or perceived employment as a city, county, state, or federal peace officer, member of an organized fire department, emergency medical services personnel; provide that "emergency medical services personnel" is defined as in KRS 311A.010; enumerate that members of an organized fire department or emergency medical services personnel includes volunteer members if the violation occurs while the volunteer is performing duties with an organized fire department or emergency medical services personnel.
(Prefiled by the sponsor(s).)

BR80 - Representative Joni Jenkins
(8/2/2016)
AN ACT relating to the Kentucky educational excellence scholarship.
Amend KRS 164.7871 to name the Kentucky educational excellence scholarship the "Arch Gleason Kentucky Educational Excellence Scholarship"; amend KRS 164.7874 to conform.
(Prefiled by the sponsor(s).)

BR81 - Representative Jerry Miller
(8/17/2016)
AN ACT relating to spas.
Amend KRS 241.010 to define the term "spa" within the alcoholic beverage control statutes as a beauty salon employing at least ten cosmetologists, not including contractors or those renting booths or chairs within the beauty salon; direct that a properly licensed professional perform any spa services requiring an occupational license for that service; prohibit the spa definition from limiting or restricting any practitioner from engaging in services authorized under that person's license; define "beauty salon," "cosmetologist," and "cosmetology" as used in the spa definition; amend KRS 243.086 to allow a spa to obtain a Nonquota Type 3 (NQ3) alcohol drink license; limit alcohol by the drink sales at a spa to only those guests who are receiving at least an hour of one of the primary services offered by the spa; amend KRS 244.085 to add spas to the list of alcohol by the drink establishments that are exempt from the prohibition against minors remaining on the premises.
(Prefiled by the sponsor(s).)

BR84 - Representative Kevin Bratcher
(7/22/2016)
Declare state sovereignty over powers not given to the federal government by the United States Constitution; demand that the federal government cease mandates beyond constitutionally delegated powers; prohibit federal legislation requiring state passage of laws under threat of penalties or sanctions; distribution of copies of the Resolution to designated officials.
(Prefiled by the sponsor(s).)

BR86 - Representative James Kay
(9/15/2016)
AN ACT relating to the independence and transparency of the board of trustees of the Kentucky Retirement Systems and declaring an emergency.
Amend KRS 12.028 to prevent the Governor from effecting any reorganization of the Kentucky Retirement Systems board of trustees; amend KRS 63.080 to prevent the Governor from removing trustees of the Kentucky Retirement Systems, except upon conviction of a felony or for a finding of an ethical violation as provided under KRS 61.645; amend KRS 61.645 to change the composition of the Kentucky Retirement Systems board of trustees to eight elected trustees and five appointed trustees, removing one gubernatorial appointment and the secretary of the Personnel Cabinet from the board; limit the definition of "investment experience"; provide that a vacancy of an elected trustee shall be filled upon a vote of a majority of the remaining elected trustees and that the vacancy shall be filled within 90 days; place the Kentucky Retirement Systems under the Model Procurement Code; establish that any raises to Kentucky Retirement Systems staff be no higher than KRS Chapter 18A employees; require disclosure of all holdings, fees, and commissions by individual investment managers, require the Kentucky Retirement Systems to report returns net of fees; require disclosure of all contracts or offering documents and contract disclosure of investment contracts to the board, the Auditor of Public Accounts and the Government Contract Review Committee; establish a ban on placement agents; amend KRS 61.650 to impose on the Kentucky Retirement Systems board of trustees, staff, and contract investment advisors the CFA Institute Codes of Conduct; amend KRS 12.020 and 18A.035 to make technical and conforming amendments; provide a delayed effective date for the changes to the board composition, direct the Kentucky Retirement Systems to hold elections and prescribe the initial terms of office for the new elected members; EMERGENCY.
(Prefiled by the sponsor(s).)

BR94 - Representative John Short
(7/27/2016)
AN ACT relating to the property tax on unmined coal.

Amend KRS 132.820 to establish a standard value for unmined coal reserves that have not been mined during the 10-year period immediately preceding the assessment date, for purposes of state and local property taxes on unmined coal assessed on or after January 1, 2018, setting the standard value thereof at zero unless information is available that warrants any deviation; require the Department of Revenue to prepare an informational document explaining the basis of this tax, the valuation procedures used, and the procedure for taxpayers to follow to appeal assessments; amend KRS 131.190 and 134.546 to conform; make technical corrections.
(Prefiled by the sponsor(s).)

BR95 - Representative John Short
(8/17/2016)
AN ACT relating to a tax credit for volunteer firefighters.
Create a new section of KRS Chapter 141 to establish a refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit and to make technical corrections.
(Prefiled by the sponsor(s).)

BR97 - Senator Reginald Thomas
(8/3/2016)
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 justified; repeal KRS 503.120.
(Prefiled by the sponsor(s).)

BR103 - Senator Reginald Thomas
(8/3/2016)
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).)

BR110 - Representative Chuck Tackett
(9/8/2016)
AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemptions from taxation.
Propose an amendment to Section 170 of the Constitution of Kentucky to exempt from taxation property of certain veterans' organizations if the entity has qualified for exemption from federal income tax; submit to voters.
(Prefiled by the sponsor(s).)

BR111 - Senator John Schickel
(8/30/2016)
AN ACT relating to operator's license testing.
Amend KRS 186.480 to require the Department of Kentucky State Police to make a driver's manual available in printed or electronic format that contains the information needed for an operator's license examination; require that the manual have a section regarding an applicant's conduct during interactions with law enforcement officers; require that the operator's license examination include the applicant's knowledge regarding conduct during interactions with law enforcement officers.
(Prefiled by the sponsor(s).)

BR115 - Representative Rick Nelson
(7/26/2016)
AN ACT relating to expungement.
Amend KRS 431.073 to reduce filing fee for felony expungement from $500 to $200.
(Prefiled by the sponsor(s).)

BR123 - Representative Jeffery Donohue
(8/22/2016)
AN ACT relating to railroads.
Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.
(Prefiled by the sponsor(s).)

BR124 - Representative Jeffery Donohue
(8/22/2016)
AN ACT relating to public procurement.
Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish policy of the Commonwealth of Kentucky to promote the Kentucky and United States economies by requiring a preference for iron, steel, and manufactured goods produced in Kentucky and the United States; define "manufactured in Kentucky," "manufactured in the United States," "Kentucky," and "United States"; require preference for iron, steel, and manufactured goods made in Kentucky in construction and maintenance contracts and subcontracts; provide for a waiver of the Kentucky preference requirement; require preference for iron, steel, and manufactured goods made in the United States if the Kentucky waiver is granted; provide for a waiver of the United States preference requirement; establish a short title of "Kentucky Buy American Act"; amend KRS 45A.343, 45A.352, 65.027, 162.070, 164A.575, 176.080, and 424.260 to require compliance with the Kentucky Buy American Act.
(Prefiled by the sponsor(s).)

BR125 - Representative Jeffery Donohue
(8/8/2016)
AN ACT relating to day reporting programs.
Create a new section of KRS Chapter 533 to authorize the use of day reporting programs in criminal sentencing.
(Prefiled by the sponsor(s).)

BR132 - Senator Reginald Thomas
(8/26/2016)
AN ACT relating to superintendent screening committee membership.
Amend KRS 160.352 to require the appointment of a school equity council member to the superintendent screening committee, if an equity council exists; allow a board to add a high school student to the superintendent screening committee.
(Prefiled by the sponsor(s).)

BR134 - Senator Dennis Parrett
(9/15/2016)
AN ACT relating to kinship care.
Amend KRS 605.120 to permanently establish a kinship care program.
(Prefiled by the sponsor(s).)

BR135 - Representative Dennis Keene
(9/23/2016)
AN ACT relating to child abuse and neglect.
Create a new section of KRS Chapter 199 to establish the central registry for child abuse and neglect; establish definitions; establish requirements for operation of the registry; provide that the Act be known as Sophie's law.
(Prefiled by the sponsor(s).)

BR138 - Senator Reginald Thomas
(9/20/2016)
AN ACT relating to wages.
Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from $95,000 to $500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to $8.20 per hour on July 1, 2018, $9.15 per hour on July 1, 2019, and $10.10 per hour on July 1, 2020, and to raise the state minimum wage for tipped employees to $3.05 per hour on the effective date of the Act, $3.95 per hour on July 1, 2019, and $4.90 per hour on July 1, 2020; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.
(Prefiled by the sponsor(s).)

BR141 - Representative Fitz Steele
(8/18/2016)
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; apply to property assessed on and after January 1, 2018.
(Prefiled by the sponsor(s).)

BR142 - Representative Fitz Steele
(8/18/2016)
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, relating to transfer of county fund balances.
(Prefiled by the sponsor(s).)

BR143 - Representative Fitz Steele
(8/18/2016)
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 in 2017, 2018, 2019, and 2020 to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.
(Prefiled by the sponsor(s).)

BR145 - Senator John Schickel
(8/30/2016)
AN ACT relating to a board of directors of a college within the Kentucky Community and Technical College System.
Amend KRS 164.350 to require the board of directors of a community and technical college to approve biennial budget requests and to accept or reject donations of land or funds to the college; amend KRS 164.600 to change the terms of office for members of boards of directors; hold members of boards of directors harmless for proper actions and require that they be provided legal counsel upon request; require an outside agency or foundation associated with a college to notify the local board of directors of upcoming meetings, to conduct open meetings, to publicly disclose all financial documents, including donations and moneys raised and expended, and to prohibit the agency's or foundation's citizen members from having a conflict of interest or being a relative of a college employee.
(Prefiled by the sponsor(s).)

BR147 - Representative Kim King
(9/14/2016)
AN ACT relating to sex offender registrants.
Amend KRS 17.545 to prohibit sex offender registrants from being on the grounds of a publicly owned playground without advance written permission.
(Prefiled by the sponsor(s).)

BR148 - Representative Kim King
(9/14/2016)
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 vote for any state fiscal measure.
(Prefiled by the sponsor(s).)

BR149 - Representative Kim King
(9/14/2016)
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).)

BR150 - Representative Kim King
(8/30/2016)
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).)

BR151 - Representative Kim King
(8/30/2016)
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).)

BR152 - Representative Kim King
(8/12/2016)
AN ACT relating to pawnbrokers.
Amend KRS 226.040 to require pawnbrokers to record daily transaction information and also provide the information on an online service accessible by law enforcement agencies.
(Prefiled by the sponsor(s).)

BR157 - Representative Jody Richards
(8/26/2016)
AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.
Authorize to the Department of Veterans' Affairs Federal Funds and Bond Funds in fiscal year 2016-2017 for the construction of the Bowling Green Veterans Center nursing home; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the General Fund Surplus Account or the Budget Reserve Trust Fund Account; APPROPRIATION; EMERGENCY.
(Prefiled by the sponsor(s).)

BR166 - Representative Tim Couch
(9/20/2016)
Urge the United States Environmental Protection Agency to prioritize compliance assistance over current enforcement practices.
(Prefiled by the sponsor(s).)

BR176 - Senator Danny Carroll
(9/19/2016)
AN ACT relating to nuclear power.
Amend KRS 278.600 to require that nuclear power facilities have a plan for the storage of nuclear waste rather than a means of permanent disposal and to add definitions of "storage," "low-level nuclear waste," and "mixed nuclear waste"; amend KRS 278.610 to allow certification if the facility and its plans for waste storage are approved by the Nuclear Regulatory Commission; eliminate the requirement that the facility have a plan for disposal of high-level nuclear waste; eliminate the requirement that cost of waste disposal be known; eliminate the requirement that the facility have adequate capacity to contain waste; give the Public Service Commission

authority to hire a consultant to perform duties relating to nuclear facility certification; prohibit construction of low-level nuclear waste disposal sites in Kentucky except as provided in KRS 211.852; direct the Energy and Environment Cabinet to review regulations required for permitting nuclear facilities and report to LRC; repeal KRS 278.605, relating to construction of nuclear power facilities.
(Prefiled by the sponsor(s).)

BR179 - Senator Danny Carroll
(9/19/2016)
AN ACT relating to the law enforcement and firefighters foundation programs and making an appropriation therefor.
Amend various sections of KRS Chapter 15 and KRS 95A.250, relating to the Kentucky Law Enforcement Foundation Program fund and the Firefighters Foundation Program fund, to increase the annual supplement payment to local governments for qualifying law enforcement officers and firefighters from $3,000 to $4,000 beginning July 1, 2018; provide a reimbursement to local governments to reimburse for required contributions to the employee pension system resulting from the supplement increase; provide partial compensation for local government administrative expenses; amend KRS 95A.262 to increase the annual allocation to volunteer fire departments from the Commission on Fire Protection Personnel Standards and Education from $8,250 to $11,000 beginning July 1, 2018; APPROPRIATION.
(Prefiled by the sponsor(s).)

BR180 - Senator Danny Carroll
(9/19/2016)
AN ACT relating to the tracking of drug convictions.
Amend KRS 218A.202 to require the Administrative Office of the Courts to forward drug conviction data to the Cabinet for Health and Family Services for inclusion in the KASPER electronic monitoring system.
(Prefiled by the sponsor(s).)

BR183 - Representative Tim Couch
(9/13/2016)
AN ACT relating to greater public awareness of taxes levied by school districts.
Amend KRS 157.440, 157.621, 160.470, 160.473, and 160.476 to expand the existing public hearing requirements for property taxes levied by school district boards of education to apply to all property tax rates rather than only rates exceeding the calculated compensating tax rate; require notice of the public hearings to be posted on the school district Web site in addition to the required newspaper advertisement.
(Prefiled by the sponsor(s).)

BR184 - Representative Tim Couch
(9/13/2016)
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; apply to property assessed on and after January 1, 2018.
(Prefiled by the sponsor(s).)

BR185 - Representative Jill York
(9/19/2016)
AN ACT relating to the use of local government economic assistance fund moneys.
Amend KRS 42.472 to partially restrict the use of local government economic assistance fund (LGEAF) moneys distributed to counties from oil and natural gas to the repair and maintenance of streets and roads; EFFECTIVE July 1, 2017.
(Prefiled by the sponsor(s).)

BR186 - Senator Gerald Neal
(9/9/2016)
AN ACT relating to firearms.
Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.
(Prefiled by the sponsor(s).)

BR191 - Representative James Kay
(9/15/2016)
AN ACT relating to retirement benefits for legislators.
Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2017; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2017; provide that current and future legislators shall only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2017.
(Prefiled by the sponsor(s).)

BR195 - Senator Gerald Neal
(9/23/2016)
AN ACT relating to juries.
Amend KRS 29A.040 to add holders of personal identification cards issued within a county to the master list of potential jurors for that county.
(Prefiled by the sponsor(s).)

BR196 - Senator Gerald Neal
(9/23/2016)
AN ACT relating to juror pay.
Amend KRS 29A.170 to increase juror pay and expense allowance; amend KRS 32.011 to conform; repeal KRS 32.070, relating to expense allowances for jurors.
(Prefiled by the sponsor(s).)

BR209 - Senator Gerald Neal
(9/23/2016)
AN ACT relating to juries.
Amend KRS 15.733 to allow the disqualification of a prosecuting attorney from the retrial of a case due to discriminatory jury selection practices; create a new section of KRS Chapter 27A to require the Administrative Office of the Courts to collect and report data on the race, ethnicity, and sex of members of juries.
(Prefiled by the sponsor(s).)

BR210 - Representative Joseph Fischer
(9/23/2016)
AN ACT relating to controlled substances.
Amend KRS 218A.1412 to make trafficking in any amount of fentanyl or carfentanil subject to elevated penalties.
(Prefiled by the sponsor(s).)

BR225 - Representative Jill York
(9/19/2016)
AN ACT relating to promise zone tax incentives.
Amend KRS 139.570 to allow additional compensation for sellers in the promise zone; create a new section of KRS Chapter 141 to allow an income tax credit for qualified employees equal to the individual income tax on wages earned in the promise zone, not to exceed $2,400; allow an income tax credit for qualified employers in an amount equal to $100 for each employee working within the promise zone; require reporting by the Department of Revenue to the Legislative Research Commission; amend KRS 141.0205 to order the new tax credits; create a noncodified section to set forth the purpose of the Act and describe actions previously taken by the federal government.
(Prefiled by the sponsor(s).)

BRs by Sponsor

* - denotes primary sponsorship of BRs

Senate

Carroll, Danny
BR176*, 179*, 180*
Neal, Gerald A.
BR186*, 195*, 196*, 209*
Parrett, Dennis
BR134*
Schickel, John
BR111*, 145*

House

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East Kentucky,

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training people for new work is important but said "it's sad" what has happened to the coal industry in the past decade.

"The thing that makes it so sad is it's just unnecessary. It's so unnecessary what the federal government through the EPA (Environmental Protection Agency) has done to the coal industry. And it's not going to stop. You're offsetting some of that but… it's going to get worse. There's going to be more unemployment."

Whitehead agreed things are bad economically in Eastern Kentucky and said "it's going to get worse before it gets better." But he said the retraining and other work that is taking place gives him hope for the future.

"I do have to hope that when we reach the bottom we will have some things in place where we start building some momentum to diversify the economy," he said.

Driving,

from page 3

consumers out there."

He said if a driver with $10,000 coverage causes $50,000 worth of damage in a wreck, the other driver and their insurance company is left paying the $40,000 difference. He said it's extremely frustrating to have to pay a deductible and submit a claim for a wreck you didn't cause.

Rep. Wilson Stone, D-Scottsville, said there are Kentuckians that can't afford car insurance if they miss even one weekly paycheck. He said that causes a cascade of problems that results in the individual either without insurance or losing their job because they don't have transportation to work.

"When considering legislation, and raising those limits, I think we need to always think about those folks," Stone said.

2016 Interim
LEGISLATIVE RECORD

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Printed with state funds

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The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

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.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

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