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General Assembly's 2015 session comes to an end

by Rob Weber
LRC Public Information

FRANKFORT—The Kentucky General Assembly's 2015 session came to a close on March 25 after Senate and House members reached an agreement on comprehensive anti-heroin legislation and a measure to expand protective orders to include dating violence victims.

Lawmakers also gave late-night approval to a bill that will safeguard the revenue stream for the state's road projects by limiting how far gas taxes can drop when fuel prices fall.

Bills approved by lawmakers and signed by the governor will go into effect as state law on June 24, except for those that specify a different effective date or include an emergency clause that makes them effective as soon as they are signed into law.

Legislation approved by the 2015 General Assembly includes measures on the following topics:

Beer distributors. House Bill 168 will prevent beer distributorships from being owned by beer brewing companies. The bill is meant to affirm that beer is not exempt from the state's three-tier system of regulating – and keeping separate – alcoholic beverage producers, distributors and retailers.

Breeders' Cup. HB 134 will reinstate a tax break for the Breeders' Cup at Keeneland in Lexington this year. The legislation will waive the state's excise tax on live pari-mutuel wagering for the event. The waiver of the pari-mutuel excise tax was reportedly worth about $750,000 the last time the event was at Churchill Downs in Louisville.

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

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

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

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

Dating violence. HB 8 will expand civil protective orders to cover dating violence victims, as well as victims of sexual abuse and stalking.

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

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

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

End-of-life care. SB 77 will allow Kentuckians to use a health care directive known as a "medical

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Anti-heroin bill passes with bipartisan support

by Jim Hannah
LRC Public Information

The General Assembly reached a compromise last session on anti-heroin legislation that supporters say balances the desire to hold people accountable for their actions while recognizing that addiction is a disease.

"The people of Kentucky fighting for public safety and people fighting … addiction have been crying for help," said Sen. Whitney Westerfield, R-Hopkinsville. "This is the help they need."

The legislation, known as Senate Bill 192, passed the state Senate by a 34-4 vote on March 24. Earlier in the day, the state House had passed SB 192 by a 100-0 vote. The governor signed the legislation the following day. Because it contains an emergency clause, it took effect immediately upon being signed.

Rep. John Tilley, D-Hopkinsville, called SB 192 a "comprehensive piece of legislation that will save lives."

The accountability part comes in the form of tougher penalties for heroin dealers. Selling between 2 grams and 100 grams is still punishable by five years to 10 years in prison, but now convicts would have to serve at least half of their sentences. Selling 100 grams or more is punishable by 10 years to 20 years in prison. Dealers convicted of this would have to serve half their sentences.

Selling less than two grams of heroin is still punishable by one year to five years in prison. Dealers who are caught with at least two indicators of trafficking, however, may be required to serve at

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least half of their prison sentence depending on the prosecution. Dealers who prove that they are selling to support a habit are eligible to be probated into treatment.

Sen. Whitney Westerfield, R-Hopkinsville, said the legislation creates a new crime, punishable by up to 10 years in prison, of importing heroin into Kentucky with the intent to distribute or sell it.

He said SB 192 targets "dealers of death," or people who distribute heroin.

In recognizing that addiction is a disease, the bill allows heroin users to exchange dirty needles for clean ones at the state's regional health departments – but only if a local jurisdiction approves. It also contains the co-called "Good Samaritan provision." It shields heroin addicts, if they provide their name and address, from being prosecuted if they report an overdose.

SB 192 will immediately infuse Kentucky's addiction treatment system with $10 million.

"It eliminates barriers to treatment, and it does so much more," Tilley said.

SB 192 will immediately infuse Kentucky's addiction treatment system with $10 million followed by $24 million annually from money saved from prior judicial reforms designed to reduce prison costs by providing lawbreakers with drug treatment, among other things.

It further provides for administration of naloxone, a medication used to counter the effects of an overdose. There is also money for Vivitrol, a drug to help narcotic dependents who have stopped taking narcotics to stay drug free.

Paul Hornback, R-Shelbyville, voted against SB 192. He said previsions, such as needle exchanges, just enables addicts.

"We have always had drugs around," Hornback said. "We are going to continue to have drugs around. We are not going to eliminate heroin.

"A lot of my constituents are tired of paying for people's bad decisions. That is what this does."

Minority Floor Leader Sen. Ray S. Jones II, D-Pikeville, defended SB 192.

"We look down our nose and want to criminalize everything," he said. "Let me tell you something, if this needle exchange prevents one person from getting HIV or Hepatitis C, it is a well done effort. If it saves one life it is something we should be proud of."

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order for scope of treatment." These orders spell out patients' wishes for end-of-life care. Unlike advance directives, the orders are considered to be physician's orders and are signed by both the patient or patient's legal surrogate, and the patient's physician.

Gas tax. HB 299 will prevent the state gasoline tax – which rises and falls with the price of gas – from dropping below 26 cents per gallon when fuel prices are low.

Gambling. SB 28 will make it clear in the law that it's illegal for so-called Internet cafes to sell Internet access to play computer-based, casino-style games, or sweepstakes, in which customers can win cash prizes.

Heroin. SB 192 will increase prison sentences for heroin traffickers and expand addiction treatment programs. The measure will also allow local-option needle exchange programs, establish a "Good Samaritan" provision to shield from criminal charges those who call for help for an overdose victim, and expand the availability of Naloxone, which can reverse the effects of heroin overdoses.

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

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

Medical research center. HB 298 will make possible the construction of a state-of-the-art medical research center to target prevalent diseases in Kentucky, including cancer, diabetes and cardiovascular disease. The legislation authorizes the issuance of $132.5 million in bonds to help build the research center at the University of Kentucky. The university will raise an equal amount for the $265 million research building.

Bills approved by lawmakers and signed by the governor will go into effect as state law on June 24, except for those that specify a different effective date or include an emergency clause that makes them effective as soon as they are signed into law.

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

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

Schools. SB 119 will give schools flexibility to deal with the unusually high number of "snow days" caused by a harsh winter. The bill would give school districts until June 5 to complete all 1,062 school instructional hours required by the state. Any remaining hours that cannot be made up could be waived by the state. School days would not be allowed to exceed seven hours or be held on Saturdays. SB 119 also contains provisions that would require school administrators, teachers, office state, teaching assistants, coaches and other employed by a school district to receive training on ways to recognize and prevent on child abuse.

Sexual assault. Senate Joint Resolution 20 would direct the Auditor of Public Accounts to study the number of sexual assault examination kits in the possession of Kentucky police and prosecutors that have not been sent to the state's forensic lab for testing. The resolution is aimed at helping state officials know the scope of a backlog that needs attention.

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

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

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

Veterans. HB 209 would create "Gold Star Sibling" specialty license plates for Kentuckians with siblings who died while serving in the U.S. armed forces. The plates would be based on the Gold Star plates already available to the parents and spouses of those who died while serving in the armed forces.

Road Fund bill passes, signed by governor

by Rebecca Hanchett
LRC Public Information

FRANKFORT—A bill designed to potentially save the state hundreds of millions of dollars in road funds was given final legislative passage and signed into law on the last day of Kentucky General Assembly's 2015 annual session.

House Bill 299, sponsored by House Appropriations and Revenue Chairman Rick Rand, sets a 26-cent "floor," or minimum, for the state gas tax. The state gas tax rate was 27.5 cents a gallon when the bill was passed on March 25, but the rate was expected to plummet on April 1 without the new floor due to changes in the average wholesale price of gasoline.

The 26-cent base rate took effect on March 25, immediately after the bill was signed by Governor Beshear. Besides setting the new floor rate, HB 299 allows for an annual fuel tax adjustment rather than quarterly adjustment as prescribed by past law, and will allow the state gas tax to rise or fall up to 10 percent per year.

In his floor speech before the bill's final passage, Rand called HB 299 the session's "Road Fund stabilization plan," adding, "as we all know, our fuel tax has been in free fall, and this will help us stabilize that by setting a new floor."

Among those opposing the bill in the House was Rep. Adam Koenig, R-Erlanger, who described the bill as a temporary fix for funding Kentucky's roads. He said that he will likely file legislation to require a look at new road funding mechanisms for the state.

"It's my opinion that we need to fund our roads not based upon how much gas you buy but on how many miles you drive," said Koenig.

Majority Floor Leader Sen. Damon Thayer, R-Georgetown, was one of nine senators who voted against the bill.

"I voted on this gas tax floor twice before and both times I was told you will never have to vote on this again. When the price goes up, yes, the tax will go up. But when the price goes down, the tax will go down too. That is how it was sold."

Sen. Jared Carpenter, R-Berea, voted for the bill.

"We are coming through one of the worst winters in recent history," he said. "If we don't provide the money to make sure we can get our roads fixed and taken care of, that's when you are really going to hear from your constituents," he said.

Senate Transportation Committee Chair Ernie Harris, R-Prospect, at left, and Senate Minority Whip Julian Carroll, D-Frankfort, confer between votes on the floor of the Senate.

Dating violence bill receives final passage

House Judiciary Chair John Tilley, D-Hopkinsville, speaks on Kentucky's dating violence issue in House committee.

by Rebecca Hanchett
LRC Public Information

FRANKFORT – Legislation has been signed into law that will allow Kentuckians in dating relationships to go to court and get immediate civil protection against an abusive boyfriend or girlfriend.

House Bill 8, sponsored by House Judiciary Committee Chairman John Tilley, D-Hopkinsville, and Rep. Joni Jenkins, D-Shively, will allow dating violence victims—whether they are victims of domestic violence, dating violence, sexual assault, or stalking—to get a civil protective order as of Jan. 1, 2016. An order could be erased from someone's record if it is ever dismissed by the court.

The bill was signed into law by Governor Beshear on April 1. It had received final passage in the House by a vote of 100-0 on March 25—the final day of the 2015 annual session of the General Assembly—after passing the Senate by a vote of 37-1 on March 24.

Provisions relating to domestic violence would be distinguished from dating violence, stalking, and sexual assault in the bill under Senate language agreed to by the House.

Currently, victims of dating violence in Kentucky must file criminal charges against their partner in the hope of preventing ongoing abuse. Only victims who are married to, have a child with, or live with their abuser can seek civil protection from domestic violence or abuse, physical violence, or stalking as specified under Kentucky law.

Tilley said in House debate on HB 8 earlier this session that Kentuckians under age 20 are "four times" more like to be abused by a partner than others. "The purpose of this bill," he said, "is to protect lives."

Sen. Whitney Westerfield, R-Hopkinsville, commended the passage of the legislation, which he has worked on in various forms since 2013.

"It's been a slow march, but it's been worth every single step," Westerfield said. "And it's better late than never at all."

National survey data from the Centers for Disease Control found that 638,000 Kentucky women had been raped, stalked, or suffered some form of physical attack by a romantic partner in the Commonwealth as of 2010. The survey data also revealed that Kentucky led the nation in forms of sexual violence or abuse as of that year.

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Committee Meetings

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INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Minutes of the 1st Meeting
of the 2014 Interim
November 17, 2014

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 17, 2014, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Fitz Steele, Co-Chair; Senator Jerry P. Rhoads; Representatives Keith Hall and Terry Mills.

Guests: Rip Rippetoe, President and CEO, Kentucky State Fair Board; Anthony Leachman, CFO, Kentucky State Fair Board; Greg Johnson, Commissioner, Department of Fish and Wildlife Resources; Dr. Karen Waldrop, Deputy Commissioner, Department of Fish and Wildlife Resources; Gabe Jenkins, Deer and Elk Program Coordinator, Department of Fish and Wildlife Resources.

LRC Staff: Mona Juett, Justin Perry, and Benjamin Thompson.

Kentucky State Fair Board

President and CEO Rip Rippetoe provided an update of the Kentucky State Fair Board's financial status.

In response to a question from Chair Steele concerning payments from the Louisville Arena Authority, Mr. Rippetoe said that the Kentucky State Fair Board had received a total of $250,000 of the $1,400,000 bill for operations.

In response to a question from Senator Rhoads concerning Cardinal Stadium, Mr. Rippetoe said that the metal bleachers were sold off for $65,000. The rest of the stadium would remain as-is until funding becomes available.

Department of Fish and Wildlife Resources

Commissioner Greg Johnson testified about the Department of Fish and Wildlife Resources' Elk Program.

In response to a question from Chair Steele, Dr. Karen Waldrop said that the revenue from hunting tag sales goes back into the program.

In response to questions from Representative Hall, Mr. Gabe Jenkins stated that the elk hunt could be improved by increasing access to elk habitat areas and increasing elk numbers. Dr. Waldrop said that a maximum of ten percent of elk tags are sold to out-of-state hunters and that out-of-state tags are more expensive.

In response to a question from Chair Steele, Dr. Waldrop said that the most recent elk hunting season included hunters from every state except Hawaii.

In response to a question from Senator Rhoads concerning elk habitats, Dr. Waldrop said that the areas in eastern Kentucky where elk had already been reintroduced were optimal for elk populations. Dr. Waldrop said that western Kentucky could sustain elk but there would likely be a lot of damage to agriculture.

In response to questions from Senator Girdler concerning ease of access, Mr. Johnson said that one thing the legislature could do to increase ease of access would be to consider a tax break to coal companies for allowing reclaimed mines to be opened for public hunting. Dr. Waldrop said that the biggest concern the department has with coal companies is getting a signed agreement to allow hunting on their land. The department is providing vouchers for landowners. In the voucher system, when a landowner opens land for public hunting, a bull elk is worth two points and a cow elk is worth one point. A landowner who accumulates twenty points is given one elk tag.

In response to questions from Chair Steele, Dr. Waldrop said that aerial counts of elk populations are typically done by helicopter. She said that deer season and elk season run concurrently.

In response to a question from Senator Rhoads concerning quail populations, Commissioner Johnson said the department is in the fifth year of a ten year quail reintroduction program. There will be a report on the program in January.

There being no further business, the meeting was adjourned at 11:27 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

Minutes of the 2nd Meeting
of the 2014 Interim
November 17, 2014

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 17, 2014, at 10:00 AM, in Room 129 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; Representatives Mike Denham, Adam Koenig, Tom McKee, Brad Montell, Tanya Pullin, Steve Riggs, Tom Riner, and Wilson Stone.

Guests: Steve Rucker, Deputy Secretary, Finance and Administration Cabinet; Mike Hayden, Next Generation Kentucky Information Highway Program Director, Finance and Administration Cabinet; Tony Wilder, Commissioner, Department for Local Government; Amy Barnes, Branch Manager, Coal Development Branch, Department for Local Government; and, Wendy Thompson, Internal Policy Analyst, Coal Development Branch, Department for Local Government.

LRC Staff: Frank Willey, Katie Comstock, Perry Papka, and Marlene Rutherford.

Next Generation Kentucky Information Highway

Steve Rucker and Mike Hayden testified about the Next Generation Kentucky Information Highway.

In response to a question from Representative Pullin, Mr. Rucker said fiber optics would be government-owned and are projected to last 30 to 40 years.

In response to questions from Representative Denham, Mr. Rucker said rural areas would have enhanced broadband capability within three years and that prices should be driven down by competition in the market.

In response to questions from Representative Stone, Mr. Rucker said financing the service varies in each regional area, on a county-by-county basis.

In response to a question from Representative Riggs, Mr. Hayden said broadband requirements for education are higher than that of government.

Chairman McDaniel commented on the parallel comparison of the information highway with the highway system.

In response to a question from Representative Montell, Mr. Hayden said the ability to expand the bandwidth of fiber is practically infinite.

In response to questions from Representative McKee, Mr. Hayden said the evolution of the network would continue.

Chairman McDaniel called for a motion to approve the minutes of the August 28, 2014 meeting. A motion was made by Representative Stone, seconded by Representative McKee, and the minutes were approved without objection.

Coal Severance Funds

Commissioner Wilder testified about the Coal Severance Program.

In response to a question from Representative Denham, Commissioner Wilder said there is no accurate way to affect an increase in the percentage of coal ton miles traveled per county.

In response to a question from Representative Montell, Ms. Barnes said there are 36 total coal producing counties in Kentucky, with the majority being in the east.

In response to a question from Representative Riggs, Ms. Barnes said the funds would apply to any form of transportation. Commissioner Wilder said no funds had been spent on river ports to his knowledge.

In response to a question from Representative Koenig, Commissioner Wilder said it was departmental policy to set the priorities.

There being no further business before the subcommittee, the meeting was adjourned at 11:16 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education
Minutes of the 4th Meeting of the 2014 Interim

November 17, 2014

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 17, 2014, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Arnold Simpson, Co-Chair; Senators David P. Givens, Johnny Ray Turner, and Mike Wilson; Representatives Julie Raque Adams, Jim DeCesare, Jim Glenn, Derrick Graham, Reginald Meeks, Jody Richards, and Rita Smart.

Guests: Dr. Greg Hager, Legislative Research Commission; Dr. Ashley Spalding, Research and Policy Associate, Kentucky Center for Economic Policy; Robert L. King, President, Council on Postsecondary Education; Dr. Aaron Thompson, Executive Vice President, Council on Postsecondary Education.

LRC Staff: Perry Papka, Jennifer Rowe, Chuck Truesdell, and Amie Elam.

Legislative Research Commission

Dr. Greg Hager, Legislative Research Commission, testified about the cost and funding of higher education in Kentucky.

In response to a question by Senator Givens, Dr. Hager said that extension funds are counted in the University of Kentucky total expenditures. The Council on Postsecondary Education (CPE) chose the benchmarks several years ago. Universities do not currently use benchmarks, but they are used for reporting purposes.

Kentucky Center for Economic Policy

Dr. Ashley Spalding, Research and Policy Associate, Kentucky Center for Economic Policy, testified about college affordability in Kentucky. After her presentation, there was a discussion on financial literacy of students and the amount of state support per student.

In response to a question by Representative Adams, Dr. Spalding said there is no research to show that, if Kentucky redirected tax credit funds to the College Access Program (CAP), there would be increase in the level of low-income students attending college. There is a plethora of evidence to show that need-based financial aid increases the enrollment of low-income students.

In response to a question by Representative DeCesare, Dr. Spalding said that Federal Pell Grants have not increased enough to keep up with growing tuition costs. A Pell Grant does not have as much buying power as it used to.

In response to a question by Senator Givens, Dr. Spalding said that, to her knowledge, there is no requirement for a student financial literacy class before obtaining a student loan.

Council on Postsecondary Education

President Robert King, Council on Postsecondary Education, testified about the challenges facing Kentucky's Colleges and Universities. His presentation included information on the growth of fixed costs and dwindling public funds.

In response to a question by Representative DeCesare, Dr. Aaron Thompson said that a tuition dollar is only worth approximately 65 percent of a state dollar.

In response to a question by Representative Adams, President King said that University of Kentucky and University of Louisville employees do not participate in the Kentucky Teachers' Retirement System (KTRS) or the Kentucky Employees Retirement System (KERS). Therefore, the rate increases do not apply to those universities.

In response to a question by Representative Meeks, President King said that the student success rate gaps between underrepresented students and other students are unacceptable. Dr. Thompson added that there are high expectations regarding closing the gap for minority and non-traditional students.

In response to a question by Senator Givens, President King said Dr. Thompson said that there is a need for college and career coaches for high school students. Dr. Thompson said the stigma that surrounds developmental education needs to disappear.

There being no further business, the meeting adjourned at 12:02 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education
Minutes of the 4th Meeting of the 2014 Interim

November 17, 2014

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 17, 2014, at 10:00 AM, in Room 154 of the Capitol Annex. Representative, Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Senators David P. Givens, Johnny Ray Turner, and Mike Wilson; Representatives Will Coursey, Jeffery Donohue, Derrick Graham, Dennis Horlander, and Steven Rudy.

Guests: Dr. Greg Hager, Legislative Research Commission; Dr. Ashley Spalding, Research and Policy Associate, Kentucky Center for Economic Policy; Robert L. King, President, Council on Postsecondary Education; Dr. Aaron Thompson, Executive Vice President, Council on Postsecondary Education.

LRC Staff: Perry Papka, Jennifer Rowe, Chuck Truesdell, and Amie Elam.

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In response to a question by Senator Givens, President King said Dr. Thompson said that there is a need for college and career coaches for high school students. Dr. Thompson said the stigma that surrounds developmental education needs to disappear.

There being no further business, the meeting adjourned at 12:02 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 4th Meeting of the 2014 Interim

November 17, 2014

Call to Order and Roll Call

The fourth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 17, 2014, at 10:30 AM, in Room 131 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Leslie Combs, Co-Chair; Senator R.J. Palmer II; Representatives Hubert Collins, Tim Couch, Jeff Greer, Richard Henderson, Dennis Keene, Tanya Pullin, Sal Santoro, John Short, and Jim Stewart III.

Guests: Richard Dobson, Executive Director, Office of Sales and Excise Taxes, Department of Revenue; Jim Oliver, Director, Division of Miscellaneous Taxes, Department of Revenue; David Talley, Innovative Finance Manager, Transportation Cabinet; Beecher Hudson, Louisville Wheels, President, Kentucky Public Transit Association; Andrew Aiello, Transit Authority of Northern Kentucky; and Shirley Cummins, Rural Transit Enterprises Coordinated.

LRC Staff: Chuck Truesdell, Joe Lancaster, Ben Baker, and Spring Emerson.

October Motor Fuels Tax Survey

Mr. Dobson testified about the October Motor Fuels Tax Survey.

In response to a question from Representative Collins, Mr. Dobson said the motor fuels tax rate was $23.7 cents per gallon for April/June 2014. The average wholesale price upon which the rate is based cannot go below the floor of $1.786.

In response to a question from Representative Henderson, Mr. Dobson said the 4.3 cent drop from the previous quarter represents a loss of $16 million per quarter in receipts, assuming all other factors remain exactly the same.

In response to a question from Chair Higdon, Mr. Dobson said his office works with the Governor's Office of Policy and Management in acquiring the data. The future of wholesale motor fuels is around $2.00 per gallon, which is a decrease from what the October survey shows.

In response to questions from Representative Collins, Mr. Dobson said the ad valorem property tax is not part of the Department of Revenue tax collections.

Louisville-Southern Indiana Ohio River Bridges Financial

Mr. Talley provided testified about the Louisville-Southern Indiana Ohio River Bridges project.

In response to a question from Representative Short, Mr. Talley said there will not be cash collection at the bridges due to the environmental impact and expense involved. There will be an opportunity to use cash at walk-up centers on either side of the river and at kiosks at retail outlets.

In response to a question from Representative Keene, Mr. Talley said there will be a mobile application associated with payment.

In response to a question from Chair Higdon, Mr. Talley said the walk-up centers will be operated by two or three people.

In response to a question from Representative Santoro, Mr. Talley said the transponder system will be inter-operable with the E-ZPass Organization, and there will be a local-only transponder and an option for using an existing transponder from another area.

In response to questions from Representative Collins, Mr. Talley said toll funds go into a trust account that can only be used for operations, repairs, and maintenance of the toll system. Mr. Romine said that revenue in that account cannot be used for any projects except the Louisville-Southern Indiana Ohio River Bridges project.

In response to a question from Chair Higdon, Mr. Talley said the current construction schedule is for the new downtown crossing to be completed in April 2016, the east end crossing to be completed in October 2016, and the repairs and rehabilitation to the Kennedy Bridge to be completed in December 2016.

Chair Higdon called for a motion to approve the minutes of the October 23, 2014 meeting. A motion was made by Representative Collins, seconded by Co-Chair Combs, and the minutes were approved without objection.

Public Transportation

Mr. Hudson, Mr. Aiello, and Ms. Cummins testified about public transportation.

In response to questions from Representative Collins, Mr. Aiello said state law requires that transit authorities include the names of the places where they are located, such as the Transit Authority of River City (TARC) in Louisville and the Transit Authority of Northern Kentucky (TANK). Ms. Cummins said the rural transit system for Medicaid is integrated into the public transportation system, and brokerships require a 72-hour notice. Mr. Aiello said the rural transit systems are Special Purpose Government Entities (SPGEs). Mr. Hudson said the Medicaid transportation program is set up for both profit and non-profit entities and is subject to the Open Records law.

There being no further business, the meeting was adjourned at 11:34 AM.

LEGISLATIVE RESEARCH COMMISSION

Minutes of the 546th Meeting

February 4, 2015

Call to Order and Roll Call

The 546th meeting of the Legislative Research Commission was held on Wednesday, February 4, 2015, at 1:00 PM, in Room 125 of the Capitol Annex. Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

LRC Staff: Marcia Seiler and Christy Glass.

There being a quorum present, Representative Stumbo called for a motion to approve the minutes of the November 12, 2014, meeting; accept and refer as indicated items A. through G. under Staff and Committee Reports; refer administrative regulations as indicated and approve item A. under New Business; and accept and refer as indicated items 1. through 41. under Communications. The motion was made by Senator Stivers and seconded by Representative Overly. A roll call vote was taken, and the motion passed 14-1. Senator Jones asked for his pass vote to be changed to yes. The following items were approved, accepted, or referred.

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

Staff and Committee Reports

Information requests for November 14, 2014, through January 2015.

Committee Activity Reports for November through December 2014.

Report of the Administrative Regulation Review Subcommittee meetings on November 14 and December 9, 2014, and January 13, 2015.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare during its meetings of November 19 and December 17, 2014.

Committee review of FFY 2015-16 Temporary Assistance for Needy Families Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting of November 19, 2014.

Memorandum from Teresa Arnold, Deputy Director for Research, submitting the 2014 Report on Supports for Family Caregivers of Elders. (Staff suggested committee referral: Health and Welfare.)

Committee review of Executive Reorganization Order 2014-906 by the Interim Joint Committee on Health and Welfare during its meeting of December 17, 2014.

New Business

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6) and 158.6471(6): 907 KAR 3:005 & E (Coverage of physicians' services); 907 KAR 15:070 & E (Coverage provisions and requirements regarding services provided by residential crisis stabilization units); and 907 KAR 15:075 & E (Reimbursement provisions and requirements for behavioral health services provided by residential stabilization units) to Senate and House Standing Committees on Appropriations and Revenue; 201 KAR 9:310 (Continuing medical education); 201 KAR 9:450 (Fee schedule regarding acupuncturists); 201 KAR 9:460 (Written plan); 201 KAR 20:220 (Nursing continuing education provider approval); 201 KAR 20:240 (Fees for applications and for services); 902 KAR 2:020 (Reportable disease surveillance); 902 KAR 100:012 (Fee schedule); and 922 KAR 5:050 (Funding requirements for domestic violence shelters) to Senate and House Standing Committees on Health and Welfare; 501 KAR 6:999 (Corrections secured policies and procedures) to Senate and House Standing Committees on Judiciary; 804 KAR 10:031 (Local Government regulatory license fees); 815 KAR 6:040 (Home inspector prelicensing providers) and 815 KAR 6:080 (Continuing education provider) to Senate Standing Committee on Licensing, Occupations, and Administrative Regulations and House Standing Committee on Licensing and Occupations; 739 KAR 2:060 (Certification and qualifications of fire service instructors); 815 KAR 7:120 (Kentucky Building Code); 815 KAR 8:010 (Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements); 815 KAR 8:020 (Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements); 815 KAR 8:070 (Installation permits); 815 KAR 8:090 (Fees and refunds); 815 KAR 20:015 (Fees and refunds); 815 KAR 20:030 (License application; qualifications for examination, examination requirements, expiration, renewal, revival, or reinstatement of licenses); 815 KAR 20:050 (Installation permits); and 815 KAR 20:195 (Medical gas piping installations) to Senate Standing Committee on State and Local Government and House Standing Committee on Local Government; 301 KAR 2:221 & E (Waterfowl seasons and limits); and 301 KAR 2:222 & E (Waterfowl hunting requirements on public lands) to Senate Standing Committee on Natural Resources and Energy and House Standing Committee on Natural Resources and Environment.

Communications

From the Office of the Attorney General: Constitutional Challenge Report for the months of October and November 2014.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of October, November, and December 2014.

From the Cabinet for Economic Development, Office of Compliance and Administrative Services: Loan data sheets for each loan approved as of the quarter ending December 31, 2014. Pursuant to KRS 154.20.

From the Transportation Cabinet: 2014 Update of the Long-Range Statewide Transportation Plan for Kentucky available at http://yourturn.transportation.ky.gov.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2014. Pursuant to KRS 342.841.

From Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of September 31, 2014. Pursuant to KRS 342.841.

From the University of Kentucky: FY 14 Kentucky Interagency Groundwater Monitoring Network Annual Report. Pursuant to KRS 151.625.

From the Personnel Cabinet: 2014 Semi-annual Report listing filled positions, exempted from classified service. Pursuant to KRS 18A.030(6).

From the Cabinet for Health and Family Services: 2014 Department for Public Health Child Fatality Review Program Annual Report. Pursuant to KRS 211.684.

From the Department of Education: FY 14 Efficient School Design Within Kentucky's K-12 Education System. Pursuant to KRS 157.455(7).

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Elsmere Fire Protection District.

From the Auditor of Public Accounts: Report of the Audit of the Kentucky Public Employee Health Insurance Program.

From the Department of Revenue, Division of Corporation Tax: FY 14 Energy Efficiency Products Credits Claimed Report. Pursuant to KRS 141.436.

From the Department of Revenue, Division of Corporation Tax: FY 14 Energy Star Home and Energy Star Manufactured Home Credits Claimed Report. Pursuant to KRS 141.437.

From the Justice and Public Safety Cabinet: 2014 Child Fatality and Near Fatality External Review Panel Annual Report. Pursuant to KRS 620.055.

From the Commission on Small Business Advocacy: Kentucky Business One-Stop Portal Advisory Committee, 2014 Report Assessment and Recommendations. Pursuant to KRS 11.202(3).

From the Kentucky Commission on Human Rights: 2014 Annual Report.

From the Kentucky Department of Fish and Wildlife Resources: 2014 Report of the Status of Hunting Land Access in Kentucky. Pursuant to KRS 150.0241(6).

From the Public Protection Cabinet, Department of Insurance: 2014 Status Report on Kentucky Workers' Compensation Self-Insured Groups. Pursuant to KRS 304.50-160.

From the Kentucky Judicial Form Retirement System: FY 14 Audited Financial Statements for the Kentucky Judicial Form Retirement System. Pursuant to KRS 21.440(2).

From the Kentucky Judicial Form Retirement System: Actuarial Valuation Report as of July 1, 2014, for the Kentucky Judicial Retirement Plan, and Actuarial Valuation Report as of July 1, 2014, for the Kentucky Legislators Retirement Plan. Pursuant to KRS 21.440(2).

From the Department of Criminal Justice Training: 2014 Annual Carrying Concealed Deadly Weapons Report. Pursuant to KRS 237.110(19)(h)(1-3).

From the Kentucky Retirement Systems: FY 14 Audited Financial Statements. Pursuant to KRS 45.149(2)(a) and 61.645(12).

From the Kentucky Legislative Ethics Commission: FY 14 Annual Report. Pursuant to KRS 6.666(16).

From the Cabinet for Health and Family Services: FY 14 Annual Report of the Statewide Strategic Planning Committee for Children in Placement. Pursuant to KRS 194A.146.

From the Personnel Cabinet: 2014 Annual Report of the Kentucky Group Health Insurance Board. Pursuant to KRS 18A.226(5)(b).

From the Auditor of Public Accounts: FY 14

Report of the Audit of the Kentucky Office of Health Benefit and Health Information Exchange Kentucky Access Division.

From the Auditor of Public Accounts: FY 14 Report of the Audit of the Kentucky River Authority.

From the Kentucky Commercial Mobile Radio Service Board: FY 14 Annual Report. Pursuant to KRS 65.7630.

From Northern Kentucky University: FY 14 Annual Financial Report.

From the University of Kentucky: 2014 Geological Survey Annual Report.

From the Kentucky Law Enforcement Council: 2014 Annual Report on Mandatory Training for Peace Officers. Pursuant to KRS 15.334.

From the Education and Workforce Development Cabinet: Unemployment Insurance Report for the fourth quarter of 2014. Pursuant to KRS 341.240(3)(d).

From the University of Kentucky: FY 14 Audited Financial Statements of the University of Kentucky and its affiliated corporations.

From the Transportation Cabinet and the Personnel Cabinet: Transportation Engineering Series Salary Study, pursuant to 2014 RS HB 236.

From the Personnel Cabinet: Personnel Cabinet Quarterly Report as of December 31, 2014. Pursuant to KRS 61.392.

From the Cabinet for Health and Family Services: FY 14 Medicaid Fraud and Abuse Report. Pursuant to KRS 205.8483(3).

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Gallatin County School District.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Southeast Bullitt Fire Protection District.

From the Energy and Environment Cabinet, Division of Waste Management: 2014 Report of Kentucky's Waste Tire Program.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending December 31, 2014. Pursuant to KRS 342.232(2).

Other Business

Representative Stumbo asked if any member wished to discuss any new business. Seeing none, Representative Stumbo passed out a motion to the members. He said that in the last several months, the LRC has had the benefit of the draft report from NCSL. Representative Stumbo said he feels that the LRC needs to move forward with a search committee for a permanent director. The motion would require that a search committee be appointed and be composed of six members, which would include the Speaker of the House, the President of the Senate, the minority leaders in both chambers, and one member each to be appointed by the President and the Speaker. The motion also included that a national search be conducted, and that the current LRC Acting Director or any current LRC employee would be considered if they apply. Representative Stumbo indicated that is one reason why there would be an independent national search committee, so that LRC employees could apply. This committee would report to the full LRC with three (3) candidates to be considered for the director position on or before the July 2015 meeting, or at least a briefing to document progress to the full LRC. Representative Stumbo then moved for the motion to be adopted, and it was seconded by Representative Adkins.

Senator Stivers said that during discussions with his staff, it was brought to his attention that a final report, not a draft, should be requested from NCSL. He said he is concerned that the draft report does not fulfill the negotiated criteria that NCSL was to study and evaluate. Specifically, he referred to the expected comparing and contrasting of the problem areas identified in the draft report. Senator Stivers said that the areas that the NCSL staff would study and evaluate were negotiated and agreed to. He said that the report needs to be completed as negotiated so that the LRC will have criteria and a basis to start a search for a permanent director. Senator Stivers said he feels the motion is premature, and he cannot support it unless it includes additional language requesting a final report that contains those things negotiated in the original contract with NCSL.

Representative Stumbo said one of his concerns is that they have not heard from anyone from NCSL whether there would be additional costs incurred to revise the draft report. Representative Stumbo stated: "Our feeling was, when NCSL was originally retained, was that the firm that was offered that alternate presentation was more cost efficient, about one-third (1/3), of what NCSL's bill would be, and could be done more expeditiously." Representative Stumbo said he thinks LRC needs to move forward as expeditiously as possible, getting someone on board, and then directing that person to implement those policies.

Representative Stumbo said that he thinks he and Senator Stivers both agree that there needs to be a continuing oversight function from the LRC to make sure that a new director moves forward properly, and that there be independent reviews of the director's office with reports back to the LRC so that the same mistakes are not repeated.

Senator Stivers indicated that in reviewing the documents that were negotiated with NCSL, the compare and contrast aspect, for example with Iowa, North Dakota, New York or a similarly situated state, was one of the things LRC wanted studied. Senator Stivers said he thinks all four caucuses in the respective chambers would agree that they have partisan staff that are different, and that they are differentiated from the nonpartisan staff. Using Greg Rush as an example, Senator Stivers said that when a vacancy such as the Budget Director comes open, that individual should be hired by the LRC Director with no taint of being partisan towards one party, or having certain affiliations with either chamber, and above reproach in making it look appropriate. Senator Stivers asked how other states do that to ensure an apolitical group with no allegiances to party or chamber based upon hiring practices, and still maintain a system as Representative Stumbo has described, and has been discussed about creating, within the NCSL report. He went on to stress that it was clearly set out and asked for from NCSL to come up with those comparisons and contrasts, which would give a basis or a point of reference to start from when a new director is put in place. Senator Stivers said that was the discussion that took place over a year ago about how to proceed. He said the structure was to be looked at, and this is exactly what they had asked for and no more. He believes that a basis is needed that everyone believes is an appropriate model not only for the legislators, but also the employees.

Senator Stivers says that Acting Director Marcia Seiler does a wonderful job managing what LRC has right now and has gone forward to implement some of the things. He said he believes that NCSL is just waiting from LRC leadership to go forward.

Senator Carroll said he never tried to impose on someone who he thought was best hired, what he thought would be the best way for them to perform their job. Senator Carroll said a new director should be hired and then asked what type of structure and policies he or she sees as being needed at LRC, rather than already determining the actual structure under which the director would operate.

Representative Overly asked when the next LRC would meeting take place. Representative Stumbo responded that during session, it would be when the President and himself would agree on a date, but during the interim, it is the first Wednesday of the month.

Representative Overly thanked Representative Stumbo for bringing forth the motion. She said it has been her experience that during session, the LRC does not meet, and that it is usually an interim function. She stated her concern that if the body does not come back together until after the legislative session, then this matter will be deferred again for a matter of months. Representative Overly said that employee morale has been affected, and they are disappointed there has not been more change and more action. She also said the LRC does have, in hand, a draft report from NCSL that discloses that the LRC has issues that need to be addressed.

Representative Overly stated that perhaps getting the report in final form is something that could be worked on, but if they could move forward today, to at least appoint a search committee among themselves, they could also move forward with selecting the next director and bring some conclusion by midsummer. She is concerned that if no action is taken, the delay will end up being months down the road, and they may not ultimately see any action this year. Representative Overly said that would be disappointing for all LRC members.

In response to Senator Carroll and Representative Overly, Senator Stivers stated that he is not asking that they put into motion a set of criteria or protocol under which a new LRC director would act. He said he is asking for NCSL, which they have all long been members of, to look at other states. NCSL should give the LRC a model or models of how those states deal with making sure that they have a nonpartisan staff, and how staff problems deal with: a hierarchical structure so that staff knows how they get hired, how they get paid, promoted and reprimanded, who to complain to when there are complaints, and how to put that structure in place.

Senator Stivers reiterated that he is not asking for a model to be set, but he is asking for NCSL to meet its negotiated obligation and to come with recommendations, comparisons, and contrasts of how other states have done it. He stated there are many legislative bodies in similar situations as Kentucky, and there is not a doubt in his mind—because LRC asked for this—that LRC wants to see this staff, a very good staff, have a fair treatment.

Senator Stivers said this could be done simultaneously. He is asking that a letter be drafted for the NCSL to complete its comparison and contrast study. That information could become the starting point when the LRC members meet with a new director to start modeling the organization they want and need what is due to their constituents, and most importantly, the employees that work here. Senator Stivers said it would be a simple correction to complete the mission they were hired for. He said he would suggest a joint letter from the Speaker and himself to the NCSL asking for the final report that includes that information.

Representative Stumbo said that if there is no cost associated with the services that Senator Stivers described, he does not know why Senator Stivers would need the approval of the LRC because it is part of a supplemental report that has already been paid for. Representative Stumbo said if they wanted to go ahead with the search committee while Senator Stivers obtained the final report, he did not know why anyone would object to that. Representative Stumbo said that because they are in session, they need to move forward in some positive manner.

Senator Stivers said that Jay Hartz had spoken with NCSL and was told that they would need a joint letter from himself and the Speaker requesting that this is how they wanted the final report done. Senator Stivers said that this gets back to the whole system; Ms. Seiler cannot act on her volition. She has to have the authority of the Speaker and the President. Senator Stivers said that NCSL is requesting a joint letter from the President and Speaker is stating that they want the final stages of the report completed in conformity with the negotiated topics.

Representative Stumbo replied that he had never talked to NCSL about that issue at all and was not aware that NCSL wanted a joint letter. Representative Stumbo said he is willing to participate in a joint conference call if NCSL needs some sort of authority, but he is not willing to pay them any more, to which Senator Stivers agreed.

Representative Stumbo called for any further discussion. There being none, a roll call vote was taken on Representative Stumbo's motion to appoint a search committee. The motion failed 8-8.

Representative Stumbo said the vote is proof that there would be a fair and impartial, nonpartisan director chosen.

Senator Stivers asked if they could work on the draft letter and get it to his and the Speaker's satisfaction.

Speaker Stumbo thanked Senator Stivers and replied that he would suggest they arrange a conference call with the appropriate officials at NCSL and see what they want from LRC.

There being no further business, the meeting was adjourned.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

December 16, 2014

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, December 16, 2014, at 1:00 p.m., in Room 169 of the Capitol Annex. Representative Kevin Sinnette, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Chris Girdler, Julian Carroll, Bob Leeper, and Christian McDaniel; Representatives Robert Damron, Steven Rudy, Kevin Sinnette, and Jim Wayne.

Guests Testifying Before the Committee: Ms. Terry Rutledge, Assistant Vice President for Business Affairs, University of Louisville; Ms. Elizabeth Baker, Director of Planning, University of Kentucky; Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. John Hicks, Deputy State Budget Director; Ms. Brandi Armstrong, Financial Analyst, Kentucky Infrastructure Authority (KIA); Mr. Jeff Abshire, Financial Analyst, KIA; and Mr. Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Josh Nacey, Katherine Halloran, and Shawn Bowen.

Approval of Minutes

Senator Carroll moved to approve the minutes of the November 18, 2014, meeting. The motion was seconded by Senator Leeper and approved by voice vote.

Project Report from the University of Louisville (UofL)

Ms. Terry Rutledge, Assistant Vice President for Business Affairs, UofL, presented an interim authorization request for the Athletics Maintenance Facility project. The project is estimated to cost $1,250,000 and will be paid from private funds.

Senator Carroll made a motion to approve the request. The motion was seconded by Representative Damron and approved by roll call vote.

Project Reports from the University of Kentucky (UK)

Ms. Elizabeth Baker, Director of Planning, UK, presented four items. The first item was a report of the intent of UK to use the Construction Manager-at-Risk delivery method for the Renovate/Upgrade Academic Space project. No action was required.

The second item was a report of the purchase of unbudgeted medical equipment for an infant protection system designed to protect infant patients in the maternity and pediatric units. The $248,953 security system was paid with restricted funds. No action was required.

The third item was a lease modification for UK's Cancer Information Services to increase space by 670 square feet (sq ft), for a total of 7,228 sq ft, at $15.24 per sq ft for an annual cost of $110,155 to accommodate programmatic needs. The lease will expire June 30, 2016.

Senator Leeper made a motion to approve the lease modification. The motion was seconded by Senator Carroll and approved by roll call vote.

The fourth item was a $6,500,000 scope increase from private donations for the Expand/Renovate Commonwealth Stadium and Nutter Training Center project to accommodate increased bid prices. The revised project total was $126,500,000.

Representative Damron made a motion to approve the scope increase. The motion was seconded by Senator Leeper and approved by roll call vote.

Lease Reports from the Finance and Administration Cabinet

Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet, presented two items. The first item was a new lease for the Department of Public Advocacy in Franklin County for office and warehouse space. The lease was for 43,807 sq ft at an annual cost of $486,426 through June 30, 2021.

In response to questions from Senator McDaniel, Mr. Aubrey said rent continues to increase and there will be new construction to address the larger space needs and continued renovation of smaller spaces in Franklin County. Bid submissions are declining for state properties, in part, due to statutory requirements requiring 30-day cancellation clauses and not paying maintenance and insurance in the lease agreements.

Senator Carroll made a motion to approve the new lease. The motion was seconded by Senator McDaniel and approved by roll call vote.

The second item was a lease renewal for the Cabinet for Health and Family Services, Department for Community Based Services in Boone County, under the same terms and conditions, for a total annual rent cost of $288,556 through June 30, 2020.

Senator Carroll made a motion to approve the lease renewal. The motion was seconded by Senator McDaniel and approved by roll call vote.

Project Report from the Finance and Administration Cabinet

Mr. John Hicks, Deputy State Budget Director, presented an appropriation increase request of $400,000 from Eastern Kentucky University for the Construct Addition to the Ashland Building project. The project was approved in 2014 Regular Session House Bill 235 for $3,400,000 from restricted funds. The bids received were higher than expected.

In response to questions from Senator McDaniel, Mr. Hicks said the Finance and Administration Cabinet has not seen a large number of project bids coming in higher than budgeted. During the upcoming capital planning cycle, the cabinet will monitor the current market and construction costs to plan appropriately for adjustments to the construction industry.

Representative Wayne made a motion to approve the appropriation increase. The motion was seconded by Representative Damron and approved by roll call vote.

Kentucky Infrastructure Authority (KIA) Loans

Ms. Brandi Armstrong and Mr. Jeff Abshire, Financial Analysts, KIA, presented seven items. The first item was a new Fund A loan for the City of Catlettsburg in Boyd County. The request was for a

$2,485,000 loan for the Wastewater Treatment Plant Rehabilitation and Expansion and Rehabilitation of Sanitary Sewer Collection System project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $125,104.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Senator McDaniel and approved by roll call vote.

The second item was a new Fund A loan for the City of Morganfield in Union County. The request was for a $2,642,000 loan for Phase II Morganfield Combined Sewer Separation project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $162,431.

Senator McDaniel made a motion to approve the new loan. The motion was seconded by Senator Carroll and approved by roll call vote.

The third item was a Fund B loan increase for the Symsonia Water District in Graves County. The request was for an increase of $29,016 to an existing $300,000 Fund B loan for cost overruns on the New Storage Tank, Wells and Treatment Facility project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $20,226.

In response to questions from Senator McDaniel, Mr. Abshire said there was a misunderstanding between the utility and electrical company regarding the installation cost of underground electrical components resulting in the most significant overage costing $12,000.

Senator Carroll made a motion to approve the loan increase. The motion was seconded by Representative Rudy and approved by roll call vote with two "no" votes.

The fourth item was a new Fund C loan for the City of Richmond, for the benefit of the Richmond Water, Gas and Sewerage Works, in Madison County. The request was for a $1,422,370 loan for the Raw Water Intake Electric Relocation and Slide Remediation project. The loan will have a 20-year term, an interest rate of three percent, and a debt service payment of $97,936.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Representative Wayne and approved by roll call vote.

The fifth item was a Fund F loan increase for the City of Carrollton, for the benefit of Carrollton Utilities, in Carroll County. The request was for an increase of $119,171 to an existing $1,538,817 Fund F loan to accommodate higher bids for the Carroll County Interconnect project. The loan will have a 30-year term, an interest rate of 0.75 percent, and a debt service payment of $49,474.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Senator Girdler and approved by roll call vote.

The sixth item was a new Fund F loan for the Northern Kentucky Water District in Kenton County. The request was for a $4,000,000 loan for the Campbell and Kenton County Water Main and Storage Tank Improvements project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $247,902.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Representative Damron and approved by roll call vote.

The seventh item was a new Fund F loan for the City of Pineville, for the benefit of the Pineville Utility Commission, in Bell County. The request was for a $220,000 planning and design loan for the Water Treatment Plant Expansion project. The loan will have a five-year term, an interest rate of 2.75 percent, and a debt service payment of $47,946.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Representative Wayne and approved by roll call vote.

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

Mr. Ryan Barrow, Executive Director, Office of Financial Management, reported four school bond issues with SFCC debt service participation with a total par amount of $21,855,000. The state portion of the annual debt service payment was $204,198 and the local contribution was $1,314,347. The bond issues did not involve tax increases.

Senator Carroll made a motion to approve the school bond issues. The motion was seconded by Senator Girdler and approved by roll call vote.

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

Mr. Josh Nacey, Committee Staff Administrator, reported one local school bond issue for Lee County. The bond issue was 100 percent locally funded and did not involve a tax increase. The bond issue will finance an elementary school renovation. No action was required.

With there being no further business, the meeting adjourned at 1:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the December Meeting of the 2014 Interim

December 9, 2014

Call to Order and Roll Call

The December meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 9, 2014, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Senators Perry B. Clark, Sara Beth Gregory, and Alice Forgy Kerr; Representatives Robert R. Damron, and Jimmie Lee.

Guests: Becky Gilpatrick, Carl Rollins, Kentucky Higher Education Assistance Authority; Alicia Snead; Education Professional Standards Board, Jennifer Jones, Brian Thomas, Retirement Systems; Peggy Guier, Craig Potts, Scot Walters, Kentucky Heritage Council; Ron Brooks, Karen Waldrop, David Wicker, Department of Fish and Wildlife; Larry Roberts, Chip Smith, Labor Cabinet; Marc Guilfoil, Susan Speckert, Horse Racing Commission; Mitch Buchanan, Brian Judy, Board of home Inspectors; Diona Mullins, Office of Health Policy; Carrie Banahan, Chandra Venettozzi, Office of Health Benefit and Health Information Exchange; Laura Begin, Matt McKinley, Gary Kupchinsky, Paul Royce, Department for Public Health; Leslie Hoffmann, Stuart Owen, Department of Medicaid Services; Cathy Lester, Mike Weinrauch, Commission for Children with Special Health Care Needs; Christa Bell, Elizabeth Caywood, Pam Cotton, Steven Fisher, Jennie Willson, Department for Community Based Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, December 9, 2014, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Loan Program

11 KAR 3:100. Administrative wage garnishment. Becky Gilpatrick, director of student services, and Carl Rollins II, executive director, represented the division.

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

Authority

11 KAR 4:080. Student aid applications.

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

KHEAA Grant Programs

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.

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

11 KAR 5:033. KTG student eligibility requirements.

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

11 KAR 5:034. CAP grant student eligibility.

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

11 KAR 5:170. Refund and repayment policy.

In response to a question by Co-Chair Harris, Ms. Gilpatrick stated that need-based scholarships were the program's top priority so refunds of need-based scholarships were prioritized ahead of others. This enabled KHEAA to offer funds to more students in need.

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

Teacher Scholarship Loan Program

11 KAR 8:030. Teacher scholarships.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 5, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Educational Excellence Scholarship Program

11 KAR 15:060. Kentucky Educational Excellence Scholarship overpayment and refund and repayment procedure.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct citations; and (2) to amend Sections 3 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) program.

In response to a question by Co-Chair Harris, Mr. Rollins stated that the division anticipated the need for increased funding over the next six (6) years as a result of program changes. The division anticipated at $4.5 million increase in funding needs by six (6) years from the effective date of this administrative regulation. Funding was from the lottery, and lottery revenue was expected to keep pace with the increased funding needs.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 4, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Coal County Scholarship Program for Pharmacy Students

11 KAR 19:010. Coal County Scholarship Program for pharmacy students.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 5, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Coal County College Completion Program

11 KAR 20:001. Definitions for 11 KAR Chapter 20.

In response to a question by Co-Chair Harris, Mr. Rollins stated that this administrative regulation was amended commensurate with a statutory revision to clarify that a recipient of the scholarship shall be a resident or former resident of a coal-producing county. Previously, the scholarship was awarded to someone who was not from a coal-producing county but who agreed to work in a coal-producing county after graduation.

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

11 KAR 20:010. Student eligibility requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 to: (a) establish that a student may appeal the denial of the award in accordance with 11 KAR 4:030; and (b) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

11 KAR 20:020. Application and certification.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1 to clarify that the scholarship application shall be completed online from the KHEAA Web site; (4) to amend Section 2 to establish that the deadline for certification to be completed and submitted to authority shall be no later than June 30 for consistency with 11 KAR 20:001; and (5) 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.

11 KAR 20:030. Award determination procedure.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correction citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 2 to clarify how full and part-time enrollment status shall be determined for eligibility based upon the number of credit hours in which an eligible student is enrolled in accordance with 34 C.F.R. 668.2; and (4) 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.

11 KAR 20:040. Disbursement.

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

11 KAR 20:050. Refunds and repayment.

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

11 KAR 20:060. Records and reports.

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

11 KAR 20:070. Dual enrollment under consortium agreement.

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

EDUCATION PROFESSIONAL STANDARDS BOARD: Educator Preparation

16 KAR 5:060. Literacy program requirements for middle school, high school, grades 5-12, and grades P-12 certification programs. Alicia Sneed, director of legal services, represented the board.

In response to a question by Co-Chair Harris, Ms. Sneed stated that the standards in this administrative regulation were established by a literacy group that was part of the national branch of the international standards association.

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

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:291. Repeal of 105 KAR 1:290 and 105 KAR 1:360. Jennifer Jones, assistant general counsel, and Brian Thomas, general counsel, represented the systems.

105 KAR 1:410. Kentucky Retirement Systems Health Insurance and Kentucky Retirement Systems Insurance Fund Trust.

A motion was made and seconded to approve the following amendments: (1) to amends the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 3, 5, 6, 7, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Kentucky Heritage Council: Council

300 KAR 6:010. Historic rehabilitation tax credit certifications. Craig Potts, director, and Scot Walters, site development program manager, represented the council.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 6 to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 5, 6, 8, and 9 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 11 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Department of Fish and Wildlife Resources: Fish

301 KAR 1:015. Boat and motor restrictions. Ron Brooks, fisheries director; Karen Waldrop, deputy commissioner; and David Wicker, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Game

301 KAR 2:140. Requirements for wild turkey hunting.

In response to questions by Co-Chair Harris, Ms. Waldrop stated that the .410 shotgun was appropriate for harvesting wild turkey at close range, especially if youth were involved because the shotgun was easy for youth to operate. The ammunition would be 4, 5, or 6 shotgun shells.

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 add three (3) definitions; and (3) to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:144. Fall wild turkey hunting.

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

LABOR CABINET: Department of Labor: Labor Standards; Wages and Hours

803 KAR 1:010. Registration of apprenticeship programs. Larry Roberts, secretary, and Chip Smith, general counsel, represented the cabinet.

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

PUBLIC PROTECTION CABINET: Horse Racing Commission: Thoroughbred Racing

810 KAR 1:028. Disciplinary measures and penalties. Marc Guilfoil, director of racing, and Susan Speckert, general counsel, represented the commission.

In response to a question by Co-Chair Harris, Ms. Speckert stated that these administrative regulations were amended to delete language related to license revocation because that provision was already established by statute and another administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to align the overage amounts for permitted NSAIDs with 810 KAR 1:018; (2) to amend Sections 1, 2, 4, and 5 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) make technical corrections; and (3) to establish Section 12 to incorporate by reference the form to request post-race testing of a claimed horse and the claim blank envelope. Without objection, and with agreement of the agency, the amendments were approved.

Harness Racing

811 KAR 1:095. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 5 to align the overage amounts for permitted NSAIDs with 811 KAR 1:090; and (3) to amend Sections 2, 5, 6, and 10 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Quarter Horse, Appaloosa and Arabian Racing

811 KAR 2:100. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to align the overage amounts for permitted NSAIDs with 811 KAR 2:096; (2) to amend Sections 1, 2, 4, and 5 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) make technical corrections; and (3) to establish Section 12 to incorporate by reference the form to request post-race testing of a claimed horse and the claim blank envelope. Without objection, and with agreement of the agency, the amendments were approved.

Office of Occupations and Professions: Board of Home Inspectors: Board

815 KAR 6:001. Definitions for 815 KAR Chapter 6. Mitch Buchanan, chair, and Brian Judy, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:010. Home inspector licensing requirements and maintenance of records.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4 through 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct board responses. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:030. Home inspector standards of conduct.

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

815 KAR 6:090. Procedures for complaints and administrative hearings.

In response to questions by Co-Chair Harris, Mr. Judy stated that KRS Chapter 198B established statutory authority for this administrative regulation. During the public comment period, one (1) commenter expressed concerns regarding administrative due process concerns.

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

815 KAR 6:100. Compensation.

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

900 KAR 6:060. Timetable for submission of certificate of need applications. Diona Mullins, policy advisor, represented the cabinet.

Representative Lee thanked the cabinet for revising this administrative regulation on behalf of stakeholders.

900 KAR 6:065. Certificate of need application process.

A motion was made and seconded to approve the following amendment: to amend Section 8(3) to change a date reference from January 1, 2015, to the effective date of the administrative regulation. Without objection, and with agreement of the agency, the amendment was approved.

Office of Health Benefit and Health Information Exchange: Health Benefit Exchange

900 KAR 10:030. Kentucky Health Benefit Exchange Eligibility and Enrollment in a Qualified Health Plan. Carrie Banahan, executive director, and Chandra Venettozzi, health data administrator, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Banahan stated that the amendment to this administrative regulation reflected federal revisions.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) delete outdated provisions that related to the initial open enrollment period that ended March 31, 2014; and (b) specify what happens to applications if requested information is not submitted within the ninety (90) day period; (2) to amend Section 7 to update provisions that had established an effective date prior to the effective date of this administrative regulation; and (3) to amend Sections 2, 3, 4, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Office of Vital Statistics: Vital Statistics

901 KAR 5:025. Kentucky Electronic Death Registration System. Laura Begin, regulation coordinator; Matt McKinley, radiation branch manager; and Paul Royce, State Registrar, Office of Vital Statistics, represented the cabinet.

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

Division of Prevention and Quality Improvement: Programs for the Underserved

902 KAR 21:010. Eligibility for the Kentucky Physicians Care (KPC) program. Laura Begin, regulation coordinator; Gary Kupchinsky, director, Division of Prevention and Quality Improvement; Matt McKinley, radiation branch manager; and Paul Royce, State Registrar, Office of Vital Statistics, represented the cabinet.

In response to questions by Co-Chair Harris, Mr. Kupchinsky stated that the delay between the time that the statute was amended until this administrative regulation was revised accordingly was due to the time required for internal drafting and review. No public comments were received during the public comment period.

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

Division of Public Health Protection and Safety: Radiology

902 KAR 100:010. Definitions for 902 KAR Chapter 100. Laura Begin, regulation coordinator; Matt McKinley, radiation branch manager; and Paul Royce, State Registrar, Office of Vital Statistics, represented the cabinet.

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

902 KAR 100:019. Standards for protection against radiation.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 4, 15, 16, 23, 25, and 27 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:042. Decommissioning and financial surety.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 8 through 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:058. Specific licenses to manufacture, assemble, repair, or distribute products.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 4, 5, and 9 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:070. Transportation of radioactive material.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 3, 7, 10, 13, 14, 15, 17, 20, 21, 22, and 26 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:072. Use of radionuclides in the health arts.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 15, 16, 17, 19, 22, 26, 27, 29, 50, 64, 65, 68, 69, 70, 76, 78, and 79 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:100. Industrial radiography.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 14, and 16 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:142. Wire line service operations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 5, 13, 17, 22, 24, and 29 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Commissioner's Office: Medicaid Services

907 KAR 1:516E. Repeal of 907 KAR 1:515, 907 KAR 1:520, 907 KAR 1:525, 907 KAR 1:530, 907 KAR 1:550, and 907 KAR 1:555. Stuart Owen, regulation coordinator, and Natalie Kelly, division director, represented the cabinet.

Behavioral Health

907 KAR 15:005 & E. Definitions for 907 KAR Chapter 15.

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

Division of Policy and Operations: Behavioral Health

907 KAR 15:020 & E. Coverage provisions and requirements regarding services provided by behavioral health service organizations.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Sections 2, 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:025 & E. Reimbursement provisions and requirements regarding behavioral health services provided by behavioral health service organizations.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct typographical errors; and (2) to amend Section 1 to delete provisions that repeated requirements of 907 KAR 15:020. Without objection, and with agreement of the agency, the amendments were approved.

Commission for Children with Special Health Care Needs: Division of Clinical and Augmentative Services: Children with Special Health Care Needs Services

911 KAR 1:085. Early Hearing Detection and Intervention Program. Cathy Lester, program administrator, and Mike Weinrauch, program administer, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3, 4, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:360 & E. Private child care placement, levels of care, and payment. Christa Bell, assistant director; Elizabeth Caywood, internal policy analyst; and Steven Fisher, branch manager, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 4, 5, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Protection and Permanency: Adult Services

922 KAR 5:070 & E. Adult protective services.

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

922 KAR 5:120 & E. Caregiver misconduct registry and appeals.

A motion was made and seconded to approve the following amendment: to amend Section 6 to correct a form's edition date. Without objection, and with agreement of the agency, the amendment was approved.

Other Business: Co-Chair Harris thanked subcommittee members who were leaving the General Assembly. A resolution for each member had been prepared.

Co-Chair Harris stated that Representative Lee would be missed by the subcommittee, especially regarding matters pertaining to administrative regulations from the Cabinet for Health and Family Services, in which Representative Lee exhibited unparalleled expertise. Senator Clark stated that Representative Lee had been a champion for his constituents. Representative Lee stated that every legislator should have an opportunity to participate as a member of this important subcommittee because this experience gave a legislator insight into many aspects of government. He emphasized the importance of public input in the administrative regulation process. A motion was made and seconded to adopt the resolution prepared for Representative Lee.

Co-Chair Harris stated that Representative Damron would be missed by the subcommittee He would be especially missed during Appropriations and Revenue negations. Representative Damron stated that it had been his honor to serve the state for twenty-two (22) years. He stated that the voice of the people was the important thing, and he had enjoyed serving on this subcommittee because it had been a primarily bipartisan subcommittee working to improve the lives of all Kentuckians. A motion was made and seconded to adopt the resolution prepared for Representative Damron.

Co-Chair Harris stated that Senator Gregory would be missed by the subcommittee. She had also been an invaluable resource during caucus meetings. She had hit the ground running and raised the bar for new legislators. She had a keen understanding of the law and good judgment regarding policy making. Senator Gregory stated that it had been her privilege to serve and that she had great respect for the hard work and sacrifices made by legislators. She agreed with Representative Lee that every legislator should have an opportunity to participate as a member of this important subcommittee. A motion was made and seconded to adopt the resolution prepared for Senator Gregory.

Co-Chair Harris stated that he hoped all legislators, when leaving service, left with integrity intact, and he was confident that Senator Gregory, Representative Damron, and Representative Lee were leaving with their integrity intact.

The following administrative regulations were deferred to the January 13, 2015, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:310. Continuing medical education.

201 KAR 9:450. Fee schedule regarding acupuncturists.

201 KAR 9:460. Written plan.

JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: Council

503 KAR 1:090. Approval of course curriculums.

TRANSPORTATION CABINET: Kentucky Bicycle and Bikeways Commission: Motorcycle and Bicycle Safety

601 KAR 14:020. Bicycle Safety standards.

Department of Highways: Division of Maintenance: Billboards

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

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

739 KAR 2:060. Certification and qualifications of fire service instructors.

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Home Inspectors: Board

815 KAR 6:040. Home inspector prelicensing providers. Brian Judy, assistant general counsel, Mitch Buchanan, chair, represented the board. Mr. Judy requested deferral of these administrative regulations to the January 2015 meeting of the subcommittee. Without objection, and with agreement of the subcommittee, the deferral of these administrative regulations was approved.

815 KAR 6:080. Continuing education provider.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

Behavioral Health

907 KAR 15:075 & E. Reimbursement provisions and requirements for behavioral health services provided by residential crisis stabilization units.

The Subcommittee adjourned at 2:10 p.m. until January 13, 2015, at 1 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

December 15, 2014

Call to Order and Roll Call

The meeting of the Public Pension Oversight Board was held on Monday, December 15, 2014, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Tom Bennett, Jane Driskell, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Lowell Reese, Kentucky Roll Call; Russ Wright, Retiree; and Representative Arnold Simpson, among others.

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

Co-Chair Bowen reviewed the items in the members' folders, including the October KRS investment update, the KRS 2014 Actuarial and Audit Report, a KRS meeting schedule for 2015, a fund fact sheet prepared by LRC staff, and copies and summaries of pre-filed legislation. He stated the board would discuss three reports: 1) an actuarial valuation; 2) an experience study; and 3) the annual audit of KRS. The purpose of the actuarial valuation is to provide data on the funds' funding levels and unfunded liabilities and to determine the actuarially required contributions (ARC) that should be paid in the upcoming budget cycle to insure solvency of the funds. The experience study analyzes past assumptions of future economic events such as inflation, wage growth, and demographics and compares them to actual results in those areas. The annual audit of KRS summarizes the financial condition of the system at the end of a fiscal year, including the contributions and investment returns received and the benefits paid out during the year. He stated the board would also act on the draft PPOB report to be submitted to the LRC and discuss research topics for 2015. Co-Chair Bowen reiterated that the PPOB meetings in 2015 would be held on the fourth Monday of each month.

Approval of November 24, 2014 Minutes

Mr. Bennett moved that the minutes be approved. Co-Chair Yonts seconded, and the minutes were approved without objection.

Kentucky Retirement Systems Investment Update

David Peden, Chief Investment Officer of KRS, discussed the preliminary November investment update with an estimated performance report, since the board previously received the audited report for the month of October. For the month the portfolio was up seventy basis points, which was right on the benchmark. The U.S. equity markets were the best performers, with mid-cap equity leading and mid-cap growth up 3.3 percent and mid-cap value up 1.75 percent, while large cap equity was up 2.5 percent and small cap stocks were flat. The developed non U.S. equity was up about one percent and emerging markets were down about one percent, while fixed income was up slightly with interest rate sensitive fixed income up seventy basis points and high yield income flat. Mr. Peden noted that while the KRS performance was flat, the benchmark was down about seventy five basis points. Real return was negative thirty basis points for the month due to lack of inflation and the strengthening dollar, and absolute return strategies were down about forty basis points. For fiscal year to date, the performance is slightly positive, up about ten basis points, but basically flat with the positive contributors being U.S. public equity both large cap and mid cap, interest rate sensitive fixed income, real estate, private equity, and absolute return. The negative contributors to performance are U.S. small caps, non U.S. public equity, credit oriented fixed income, which is being impacted by the oil and energy related companies that are negatively affecting high yield bonds, and real return or inflation sensitive assets that are being negatively impacted by a lack of expected inflation and the strengthening dollar. For the fiscal year to date relative to the benchmark, assets are under performing by forty basis points because active management is under performing passive management and a large part of the portfolio is dedicated to active management. He also noted the general trends that larger cap stocks are outperforming smaller cap stocks, growth stocks are outperforming value stocks, interest rate sensitive fixed income is performing better than credit focused fixed income, and real return is not performing well so far this year, which are all factors that contribute to the forty basis points under performing for the fiscal year.

Responding to a point of clarification by Co-Chair Bowen, Mr. Peden indicated that performance for the fiscal year is basically flat.

In response to a question by Co-Chair Yonts concerning the flat rate of return and what affect that has on cash flow, Mr. Peden stated that the benefit payments will have to be paid through principal sales and contributions. He said that in the KERS non hazardous plan over $900 million in benefits are paid out annually and that the contributions of both employees and employers are about $400 million. He also pointed out that even with a 15.5 percent return last year KRS had to sell $180 million in assets above what was generated, and that if it continues this year the portfolio would go down about $500 million out of $2.5 billion in assets. He said that the assumptions were changed based on consultation with the investment consultant and the actuary. He said that the investment consultant deals with capital market assumptions going forward and the actuary looks at past performance.

Kentucky Retirement Systems 2014 Actuarial and Audit Report

Bill Thielen, Executive Director of KRS, discussed the 2014 actuarial valuation report and the audited financial data, which were presented to the KRS Board at its December meeting. Mr. Thielen began by identifying the basic funding equation for retirement benefits which is Contributions + Investment Income = Benefits Paid + Expenses or administration (C + I = B + E). He said that all pension and insurance plans with the exception of the KERS non hazardous pension plan and SPRS plan increased in funded status from June 30, 2013, to June 30, 2014. As of June 30, 2014, the KERS non hazardous plan was 21 percent funded and the insurance plan was 27.9 percent funded, for a combined funded level of 22.1 percent. The pension plan dropped from 23.2 percent at the end of June 30, 2013, to 21 percent at the end of June 2014. The SPRS pension plan also decreased during the fiscal year from 37.1 percent to 35.6 percent.

All other pension plans increased for the same period. He noted that all the insurance plans are doing well. He also stated that most public pension plans that pay insurance benefits are on a pay as you go basis and rarely pre-fund the insurance benefit. Mr. Thielen also highlighted comments made by the actuary based on the pension valuations, with the most significant being that the market value investment return was greater than anticipated for all funds. He also noted the actuarial value investment return was greater than expected for all plans, and he reiterated there was an increase in funded ratios for all plans except the KERS non hazardous and SPRS plans. He said that each August KRS provides the actuary a large database of information that is used to perform the actuarial valuation. The KERS non hazardous assets have steadily decreased in value over the last eight years from about $5.6 billion in market value in 2007 down to $2.56 billion as of June 30, 2014. The largest drop in assets was in 2009 and 2010 during the major recession, when all plans lost about $2 billion dollars, and in 2012, the investment rate of return was zero. While the pension plan assets are at $2.56 billion dollars, in 2014 KRS paid out over $914 million in benefit payments, refunds, and expenses from the KERS non hazardous plan. He also said that the actuary has indicated the KERS non hazardous plan funded ration will continue to go down for the next two to four years and they expect, if the investment rate of return is met along with other assumptions, that it will decline to 14.92 percent funded. However, if the ARC is funded at 100 percent and the assumptions are met, it is expected that the plan will be at 32.4 percent funded in twenty years. The KERS hazardous plan and the CERS plans also showed a loss in 2008 and 2009, but they have increased since and as long as 100 percent of the ARC is paid and the assumed rate of return is met, it is expected that these plans will continue to see their funded status increase.

In response to a question by Co-Chair Yonts, Mr. Thielen indicated that before House Bill 1 it was projected that the KERS non hazardous plan funded status would decrease to somewhere around nine percent; however, that projection has increased because of additional ARC payments and changes to the plans.

Mr. Thielen discussed the pension funding contained in the actuarial valuation. The normal total cost portion of the contribution rate for KERS non hazardous is 8.4 percent, which is the cost of benefits earned in the year the valuation is performed. In other words, if there was no unfunded liability and a pension plan was begun on July 1, 2013, this would be the cost of the benefits earned in that year. The member portion of that 8.4 percent cost is five percent and the employer normal cost is 3.4 percent of payroll, which if the 0.7 percent administrative expenses were added would give an employer cost of 4.1 percent. The portion of the rate required to amortize the unfunded liability is 29.47 percent. The total employer contribution rate based on the 2014 valuation is 33.57 percent for the pension plan. He noted that the insurance funding is separate and that both the pension and insurance plans are added together that results in the total rate. The unfunded accrued liability is $9.1 billion with a 21 percent funded ratio, and the amortized period, which was reset by Senate Bill 2, is 29 years. The total employer contribution rate for the KERS non hazardous plan rose from 30.84 percent in fiscal 2013 to 33.57 percent in fiscal 2014, which is not the rate set in the budget bill.

An analysis of the gain or loss of the 2014 KERS non hazardous pension plan with an assumed rate of return at 7.75 percent and an earned rate of 15.55 percent resulted in an actuarial gain of $129 million in investment income. An actuarial gain of $69 million was also seen when the assumed rate of payroll increase (4.5 percent) was compared to the actual flat payroll for the fiscal year, because although contributions were not increasing, there was also no additional accrued liabilities. Mr. Thielen said that that assumptions are made on service retirement at normal retirement age, but if an employee retires earlier, an actuarial loss occurs and that over the last few years there have been actuarial losses in terms of service retirement, which for this fiscal year amounted to $229 million. The analysis was basically the same for the other plans, including both the non hazardous and hazardous plans.

Mr. Thielen stated that the actuarial comments on the insurance plans valuations were basically the same as with the pension plans. There was greater than expected investment returns with all funded ratios increasing for 2014. The normal cost of insurance benefits earned in 2014 was 2.71 percent of payroll minus the member rate of 0.24 percent, and the employer normal cost rate was 2.47 percent with a 0.05 percent administrative expense. The rate to amortize the unfunded liability is 5.22 percent, resulting in a total employer contribution rate of 7.74 percent. The total employer contribution rate for both the KERS non hazardous pension and insurance plans based on the 2014 valuation is 41.31 percent (combining the 33.57 percent pension rate and the 7.74 percent insurance rate). Mr. Thielen pointed out that the combined rate for the pension and insurance plans in 2013 for CERS non hazardous was 18.10 percent, and 35.70 for hazardous; however, after the insurance phase-in, which was extended to ten years in House Bill 1, the rate for insurance was reduced slightly to 17.67 for non hazardous and 34.31 percent for hazardous in 2014, and the rate will drop again next year from 17.67 percent to 17.06 percent for non hazardous and from 34.31 percent to 32.95 percent for hazardous, which will result in several million dollars in savings in fiscal year 2016. He said the contribution rates established by the valuation recommended by the actuaries and adopted by the KRS board will become effective for CERS beginning July 1, 2015, or the 2016 fiscal year. The KERS and SPRS rates set in House Bill 235 in the 2014 Session will be the rates applied for both years of the biennium.

Responding to a question from Co-Chair Bowen concerning the funding portion for the insurance plan, Mr. Thielen stated that there has been a decrease in the healthcare cost inflation rate over the past three years and the KRS board decided to move from a self-funded health plan to a fully insured health plan provided by Humana, which decreased the unfunded liability about $2 billion and brought the insurance rate down. Mr. Thielen stated that the under 65 retirees receive health insurance through the Kentucky Employees' Health Plan and the over 65 retirees are Medicare eligible and now have a Medicare Advantage option provided by Humana, which will continue through the 2016 calendar year and that requests for proposals will be submitted for years beyond 2016. He said the 2003 changes in the health benefits had a significant impact over the last few years on the contribution rate for health insurance.

Responding to a question by Ms. Driskell concerning the increase in rate to amortize the unfunded liability from 26.71 percent in 2013 for the KERS non hazardous plan to 29.47 percent in 2014 and what is included in the "other" category on the pension gain or loss analysis, Mr. Thielen stated "other" is made up of a number of scenarios and situations such as tweaks to the actuary's software and the timing of certain situations, such as when monies are paid into the system, and the actuary has to account for those situations. Mr. Peden noted that it is assumed that all cash flows in and out of the systems occur at the midpoint in the year, but in reality they occur throughout the entire year.

Co-Chair Bowen recognized Representative Arnold Simpson in attendance.

Mr. Thielen indicated that the impact of the 2014 valuation and the rates recommended and adopted by the KRS board will become effective July 1, 2015 for CERS, and that KRS would be notifying all participating employers what the new rates will be.

In response to a question by Ms. Stemler as to why the contribution rates are decreasing, Mr. Thielen said that the liabilities have gone down as a result of Senate Bill 2 because there is not an unfunded cost of living adjustment (COLA), and because the losses in 2008 and 2009, which were "smoothed" in over the last five years in order to dampen the volatility in the employer contribution rate, have been taken off the books. In years prior to the 2014 valuation, KRS was recognizing over $1 billion in losses each year for those five years, and the changes made by Senate Bill 2 over the long term have reduced the benefit levels. He said that if the investment returns remain flat for the remainder of fiscal year 2015 it will have a negative impact in the next valuation.

Mr. Thielen discussed the experience study which was completed in late spring, 2014 and was presented to the KRS board at its May meeting. A study of all pension and healthcare funds were reviewed comparing what actually occurred during the study period from July 1, 2008 through June 30, 2013 with what was expected to happen, and assumption changes were recommended if the actual experience differed significantly from what was expected to occur. The actuaries have recommended a small reduction in the expected payroll growth assumption, but a larger reduction was not recommended because it is expected that payrolls will grow over the next few years.

Responding to a question from Senator Higdon concerning the decrease in the investment return assumption from 7.75 percent to 7.5 percent, Mr. Thielen stated there are two major economic assumptions, one being payroll growth, the other investment return. As a result of the experience study the actuaries recommended that the investment return assumption be reduced, and that this assumption be reviewed every biennium. The reason indicated is that it will be more difficult in the next few years to make the assumed rate of return. Mr. Peden indicated that the investment return assumption is a budgeting mechanism and that if the investment assumption is not earned the ARC payment will increase in order to balance the funding equation of contributions plus investment income equaling benefits paid plus expenses, and that by lowering the assumption the actuary is providing a more realistic budgeting assumption based on what they believe will happen in the future. Mr. Peden stated that the investment consultant, RV Kuhn's, provides capital market assumptions to the actuary to factor into the model. Ms. Driskell pointed out the experience study results will be used to develop the next biennial budget. Mr. Thielen stated that the valuation recommendations will factor into the rates that will become effective July 1, 2015, but the experience study assumption changes will not become effective until the 2015 valuation is performed, which will affect the rates beginning in the next biennium, July 1, 2016. Mr. Peden also noted the investment assumption is important for setting the asset allocation for the plans, and he stated he did not want to add asset classes strictly to attain a higher investment assumption.

The financial impact on the valuation for the KERS non hazardous plan is that if the assumption changes were applied to the valuation it would have increased the unfunded liability from $9.1 billion to $9.7 billion and the funded ratio would have decreased from 20.99 percent to 19.97 percent, which would also result in the employer rate increasing from 33.57 percent to 36.17 percent. The same applies to the KERS non hazardous insurance plan. The unfunded actuarial liability would have risen, the funding ratio would decrease, and the employer rate would increase. The total employer rate for this year is 41.31 percent, and if the new assumptions were used there would have been an increase to 44.80 percent; however, the new assumptions were not applied this valuation and will not be applied to the valuation next year and any impact will not affect the rates until fiscal 2017 and after. Mr. Thielen noted that the rate this year and next year will be 38.77 percent of payroll for KERS non hazardous, which was set in House Bill 235 and the KRS Board cannot change that percentage.

Mr. Thielen discussed the key audited financial data for 2014. He said the asset base of the entire system increased in 2014 by $1.5 billion from $14.68 billion to $16.17 billion, but that the KERS non hazardous plan lost $182.5 million, and therefore the asset increase was in the other plans. The net loss of $182.5 in the KERS non hazardous pension plan was a result of total deductions of $914.7 million compared to the contributions and investment gains of $732.2 million.

In response to questions from Mr. Jefferson concerning recommendations to improve the cash flow situation of the KERS non hazardous plan, Mr. Thielen indicated that KRS will keep the Board apprised of the cash flow situation and work with them to develop a plan to address the issue. He noted the actuaries are completing twenty year projections as well as projections in the event there was an infusion of additional monies in a lump sum and what the impact would be on the KERS non hazardous plan over time. He said that as soon as those projections are available he would provide them to the Board. He also said that another suggestion of the actuaries was a reduction of the amortization period for the KERS non hazardous plan, which would increase the contribution rate and provide more assets to invest that would help with the cash flow problem. However, Senate Bill 2 reset the period from twenty five years to thirty years, and while more funding is being provided in higher ARC payments over time, it will take a long period of time for the impact of the changes made in Senate Bill 2 to be realized.

Ms. Driskell pointed out that an affordable plan was developed to address the retirement system situation and is moving forward and that it will take time to see the impact.

Responding to a question by Representative Thompson concerning the 2014 pension gain and loss analysis, Mr. Thielen stated that under current conditions early retirements will continue and that the actuaries have recommended and the KRS Board has adopted adjustments to those assumptions.

In response to questions by Co-Chair Bowen concerning payroll growth and new hires contributing to a different plan as a result of Senate Bill 2 and whether payroll growth will have the impact that it would have had prior to Senate Bill 2 and the recommendations from the PPOB to the KRS Board, Mr. Thielen indicated the impact would be the same because the employer contribution is calculated the same way for employees participating in the cash balance plan as the defined benefit plan. Mr. Peden pointed out that one of the benefits of Senate Bill 2 is the cash balance plan because from a budgetary standpoint employers are making the same contribution as those in the Tier 1 or Tier 2 plans but the liabilities are not increasing as much as under those tiers. Mr. Thielen said that the recommendations made by the PPOB were very well received by the KRS Board, and KRS is in the process of implementing some of those recommendations, such as the actuarial audit, next year. Mr. Thielen indicated his thoughts were mixed on recent calls for the Auditor to perform an audit; however, he stated that KRS will cooperate fully with whatever the Auditor decides to do with the request from the Chamber of Commerce. He said that State Auditor Crit Luallen performed a comprehensive governance and operations audit of KRS and that most of the recommendations from the audit have been implemented. He also noted that a financial audit was performed that was issued this month, that the LRC Program Review and Investigations Committee has performed two significant examinations of the KRS investment program, both of which resulted in 100 page plus reports, and that the Securities and Exchange Commission performed a two and one-half year investigation of the investment program and any use of placement agents by investment managers. He pointed out that none of those examinations have resulted in any significant findings. He believed that any additional audit or investigation would be redundant and costly.

Responding to various questions from Mr. Jefferson as to when the findings of the asset allocation study are expected and published, Mr. Peden indicated there is a lot of sensitivity analysis around the expected return and that the KERS non hazardous plan has a more difficult time being in the asset classes that can generate the same return as CERS and the other plans. He believes that in the next few years the projected funding valuation for KERS non hazardous will be in the teens even if the expected return is made. He said that the KRS Investment Committee has discussed what the appropriate principal balance would be to completely divest and have in cash, with a minimum of one and one-half times benefit payments being a reasonable ratio.

In response to a question by Ms. Mattingly about the timeliness of the contributions, Mr. Thielen said that every employer participating in the system has to submit contributions and a report by the tenth of the month following the month that the contributions are earned, and if that information is not submitted timely the employer is subject to a minimum $1,000 penalty. That said, he noted that most employers pay and file the reports on time.

Final Report to Legislative Research Commission

Next on the agenda was the Board's approval of the annual report to be submitted to the LRC, which was discussed with the understanding that any technical, clerical, or stylistic changes may be made as the report is finalized, and the Co-Chairs were authorized to approve any of those types of changes.

Ms. Driskell indicated that she had some questions and follow up to the recommendations made at the last meeting and asked how those would be addressed or handled. Co-Chair Bowen stated that unless a member has an objection to Ms. Driskell's suggestions or recommendations or how those recommendations would change the report, that the report would accommodate those recommendations and incorporate them into the final report. Ms. Driskell, referring to Chapter 4 of the draft report, expressed the concern that the report will be a public report and bill numbers are referenced, but that she believes more detail may be helpful to those reviewing the report, and she stated that she had submitted to staff suggested language to be included. She also noted that the recommendation concerning "spiking" was an either / or recommendation, and it was her understanding that the Board wanted to be supportive of a measure that clearly defined what "spiking" is and that resolved the problems with "spiking" provision, and that the recommendation would be to fix the unintended consequences. In this regard, she noted she had provided language to that effect to staff. Co-Chair Yonts noted that he and Mr. Thielen would be meeting on this very issue after the meeting. The issue is that the original Senate Bill 2 placed the obligation on the employer and last year's bill shifted that obligation from the employer to the employee, and that based on data or information received an adjustment can be made to the wording of a bill that could reference "spiking" to be under a certain dollar amount rather than a percentage. For clarification of Ms. Driskell's position, Co-Chair Bowen asked if he was correct in his understanding that she was not endorsing or supporting any particular piece of legislation and that there may be several bills that address "spiking" and the legislature would adopt a bill that will address the issue as defined in the PPOB report. Ms. Driskell indicated that was correct.

Ms. Driskell also commented about one of the points relating to the actuarial experience study about recommending that the KRS Board should move quickly on adoption to insure timely completion and as she stated previously she does not want that action to be in conflict with the budgeting process.

Co-Chair Bowen asked if there were any objections to Ms. Driskell's additional recommendations and comments and there were none.

Co-Chair Yonts moved that the Board approve the draft report as submitted to the Board with the changes suggested by Ms. Driskell above and to allow for any technical, clerical, stylistic changes that would be necessary in finalizing the report. Mr. Thompson seconded. The motion to approve the draft report, as amended, was adopted without objection.

Discussion of 2015 Research Topic

Co-Chair Bowen mentioned topics that would be reviewed at the PPOB meetings in 2015. The Board is required to review investments twice per year, and that would continue to be done next year. Recommendations adopted by the PPOB last month of studying the cash flow issues facing the system would likely be studied, as well as a study of the KRS administrative expenses and approval process compared to other state systems. The PPOB would likely study the investment oversight and structure of other public pension funds, and the personnel and compensation system of KRS. He stated the PPOB would review and study data on other public pension funds as it relates to investment fees, expenses, and the required disclosure.

There being no further business, the meeting adjourned at about 2:40 p.m.

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

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

January 13, 2015

Call to Order and Roll Call

Government Contract Review Committee met on Tuesday, January 13, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

<u>Members:</u> Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and Max Wise; Representatives Jim Gooch Jr., Brad Montell, and Brent Yonts.

<u>Guests:</u> Alston Kerr, Bill Hurt, Tim Pollard, Gerry Grigsby, Doug Hendricks, Arch Gleason, Gary Ruskowski, Mary Harville, Mike Denney, Eric Pelfrey, David Martin, Bill Harris, Dall Clark, Beth Coon, Ryan Green, Todd Trapp, Jason Dunn, and David Gayle.

<u>LRC Staff:</u> Kim Eisner, Daniel Carter, and Jarrod Schmidt.

<u>ELECTION OF SENATE MEMBER CO-CHAIR</u>

Ms. Kim Eisner opened the floor for nominations from a Senate member for the position of co-chair.

Senator Hornback made a motion to nominate Senator Wise as co-chair. Senator Carroll seconded the motion.

Senator Hornback made a motion that nominations for the co-chair cease and that Senator Wise be elected by acclamation. Senator Carroll seconded the motion. Senator Wise was elected by acclamation.

A motion was made by Representative Yonts to approve Minutes of the December 2014, meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

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

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

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

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

<u>THE FOLLOWING PERSONAL SERVICE</u>

CONTRACTS
WERE REVIEWED WITHOUT OBJECTION:

ATTORNEY GENERAL, OFFICE OF THE:
Tichenor and Associates, 1500001009.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:
Jacqueline D. Alexander, 1500000991.

FINANCE AND ADMINISTRATION CABINET:
The Sanders Law Firm, P.S.C., 1500000992; Wyatt Tarrant and Combs, LLP, 1500001029.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
CMTA, Inc., 1500000925; ALT32, PSC, 1500000928; Godsey Associates Architects, Inc., 1500000966; Stengel Hill Architecture, Inc., 1500001000.

GOVERNORS OFFICE OF AGRICULTURAL POLICY:
Luther Hughes, 1500001005.

JUVENILE JUSTICE, DEPARTMENT OF:
G4S Youth Services, LLC, 1500000950; Angela Jessie, 1500000982; Angela Jessie, 1500000983.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:
Jobs for the Future, 630; Appalshop, Inc., 632.

KENTUCKY HOUSING CORPORATION:
Hanna Resource Group, LLC, 2015-1.

KENTUCKY LOTTERY CORPORATION:
Novacoast, Inc., 15-15-017.

NORTHERN KENTUCKY UNIVERSITY:
Huron Consulting Group, LLC, 681-2015.

STATE POLICE, DEPARTMENT OF:
Jack H. Riley, 1500000979; Joel Woods, 1500000980; David Lassiter, 1500001013.

TRANSPORTATION CABINET:
Strand Associates, Inc., 1500001032; Palmer Engineering Company, 1500001037.

UNIVERSITY OF KENTUCKY:
CDM Smith, Inc., A151120; KJWW, P.S.C., A151170; Scientific Certifications Systems, Inc., K15-220; Palliative Care of the Bluegrass, Inc., K15-222.

UNIVERSITY OF LOUISVILLE:
JRA, Inc., 15-113; ERP Analysts, Inc., 15-115.

WESTERN KENTUCKY UNIVERSITY:
Strategic Consulting: The Wyly/Kellogg International Group, 141529; Hafer Associates, 141634

THE FOLLOWING PERSONAL SERVICE AMENDMENTS
WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:
Volunteers of America of Kentucky, Inc., 1400002609.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Stantec Consulting Services, Inc., 1000001351.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
Myers Jolly Architects, 1000000840; Murphy & Graves & Trimble, PLLC, 1100001469; Myers Jolly Architects, 1200000117; Architectural Investments, 1200001704; HMB Professional Engineers, Inc., 1200002582; ATC Associates, Inc., 1200002604; URS Energy and Construction, Inc., 1300001891; Stantec Consulting Services, Inc., 1400000625; Myers Jolly Architects, 1400003766; EOP Architects, PSC, 1500000584; Omni Architects, C-05256615.

MEDICAL LICENSURE, BOARD OF:
Multi, 1400002582.

OFFICE OF HOMELAND SECURITY:
Goldberg Simpson, LLC, 1500000163.

TRANSPORTATION CABINET:
Michael Baker, Jr., Inc., 0700004078; BTM Engineering, Inc., 1100001221; HDR Engineering, Inc., 1200000534; Strand Associates, Inc., 1200000958; QK4, 1200002232; WMB, Inc., 1300000360; Strand Associates, Inc., 1300001568; Parsons Brinckerhoff, Inc., 1300001909; HDR Engineering, Inc., 1300001910; Bacon Farmer Workman Engineering & Testing, Inc., 1300002000; Stantec Consulting Services, Inc., 1300002846; QK4, 1400000074; HDR Engineering, Inc., 1400000344; QK4, 1400001951; APPCO Appraisal Service, Inc., 1400003717; URS Corporation, C-01346554-3.

UNIVERSITY OF LOUISVILLE:
Multi, 15-061.

WESTERN KENTUCKY UNIVERSITY:
Ross Tarrant Architects, 141611; Bridges, PS141626.

THE FOLLOWING MEMORANDA OF AGREEMENTS
WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:
Multi, 1500000995.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:
Wellspring, Inc., 1500000903.

DEPARTMENT OF WORKPLACE STANDARDS:
University of Kentucky Health, 1500000944.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:
University of Louisville Foundation, Inc., 1500000854.

EDUCATION, DEPARTMENT OF:
Kentucky Auditor of Public Accounts, 1500000845.

FISH & WILDLIFE, DEPARTMENT OF:
University of Georgia Research, 1500000646.

INFRASTRUCTURE AUTHORITY:
Perry County Fiscal Court, 1500001026.

JUSTICE CABINET:
University of Kentucky Research Foundation, 1500001089.

JUVENILE JUSTICE, DEPARTMENT OF:
University of Kentucky Medical Center, 1500000989.

MILITARY AFFAIRS, DEPARTMENT OF:
Multi, 1500000897; Bluegrass Area Development District, Inc., 1500000920.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:
Russell County Fiscal Court, 1500001012; Montgomery County Fiscal Court, 1500001033; University of Iowa, 1500001034; City of Earlington, 1500001043; Ohio County Fiscal Court, 1500001049; Kentucky Housing Corporation, 1500001070.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS
WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:
Multi, 1300001595; Multi, 1400001677.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:
Multi, 1400001162; Bluegrass Area Development District Title III, 1400001205.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:
New Beginnings Bluegrass, Inc., 1400000883; University of Kentucky Research Foundation, 1400000994; Kentucky Partnership for Families and Children, Inc., 1400001307.

DEPARTMENT FOR COMMUNITY BASED SERVICES:
Bluegrass Regional Mental Health/Mental Retardation Board, Inc., 1400001755; Seven Counties Services, 1400001757; Green River Regional Mental Health Mental Retardation Board, 1400003146.

DEPARTMENT FOR INCOME SUPPORT:
Kentucky State Police, 1400001330.

DEPARTMENT FOR PUBLIC HEALTH:
Health Kentucky, 1400001792.

EDUCATION, DEPARTMENT OF:
Fayette County Board of Education, 1400003743.

KY RACING COMMISSION:
University of Kentucky Research Foundation, 1400003137.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:
Federation of Appalachian, 1000000714; City of Campton, 1100002326; City of Olive Hill, 1100002621; City of Providence, 1200000206; Union County Fiscal Court, 1300000628; City of Columbia, 1300000635; City of Berea, 1300000725; City of Sturgis, 1300000811; Mercer County Fiscal Court, 1300000886; City of Nicholasville, 1300000905; Housing Partnership, 1400002620; Purchase Area Housing Corporation, 1400003253; Knott County Fiscal Court, 1500000046; Monroe County Fiscal Court, 1500000314; Hardin City, 1500000408; City of Calvert City, 1500000450.

PERSONNEL-OFFICE OF THE SECRETARY:
University of Louisville, 1500000747.

POST SECONDARY EDUCATION, COUNCIL ON:
Kentucky Science and Technology Corporation, 1400003209.

TRANSPORTATION CABINET:
Lake Cumberland District Health, 1400001914; Hopkins County Health Department, 1400002022.

DECEMBER 2014 DEFERRED ITEM

Horse Park, Kentucky:
James W. Link, 1500000969. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Gooch seconded the motion, with Senators Hornback, Wise, and Representative Montell voting no.

FOLLOWING PERSONAL SERVICE CONTRACTS

WERE SELECTED FOR FURTHER REVIEW:

FINANCE AND ADMINISTRATION CABINET:

The Baller Herbst Law Group, PC, 1500001040. Gerry Grigsby and Doug Hendricks discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

KENTUCKY LOTTERY CORPORATION:

GTECH Corporation, 15-15-001. Arch Gleason, Gary Ruskowski, Mary Harville and Mike Denney discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

TRANSPORTATION CABINET:

Strand Associates, Inc., 1500001011; QK4, 1500001028. Eric Pelfrey and David Martin discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

UNIVERSITY OF KENTUCKY:

Stengel-Hill Architecture, A151150; Witt Kieffer, K15-221. Bill Harris and Dall Clark discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

WORKFORCE INVESTMENT, OFFICE OF:

Thomas P. Miller and Associates, LLC, 1500001001. Beth Coon and Ryan Green discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

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

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Lake Cumberland CSO, Inc., 1400001456; Northern Kentucky Community Action, 1400001463. Todd Trapp, Jason Dunn and David Gayle discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Gooch seconded the motion, which passed.

EXEMPTION REQUEST:

DEPARTMENT OF MILITARY AFFAIRS, OFFICE OF ADJUTANT GENERAL:

Department of Military Affairs, Office of the Adjutant General requested an exemption from the committee's routine review process for federally funded Emergency management Performance Grant (EMPG) agreements and will provide the committee with quarterly reports. A motion was made by Representative Yonts to grant the request to December 31, 2015. Representative Gooch seconded the motion, which passed.

With no further business before the committee, the meeting was adjourned at 11:20 a.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

January 7, 2015

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, January 7, 2015, during recess of the Senate and House Chambers, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Dennis Parrett and Robin L. Webb; Representatives Mike Denham, Tom McKee, Terry Mills, and Ryan Quarles.

Guests: Joel Neaveill, Bill McCloskey, Angela Blank, and Brian Murphy, Governor's Office of Agricultural Policy.

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

The December 3, 2014, minutes were approved, without objection by voice vote, upon a motion by Senator Parrett and second by Representative Mills.

Governor's Office of Agricultural Policy

Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy, summarized the project funding decisions by the Agricultural Development Board (ABD) during its December meeting.

Mr. Neaveill discussed tobacco settlement funding allocations for the previous months under the County Agricultural Improvement (CAIP) and Shared-use Equipment programs, and Mr. McCloskey summarized board approvals under the On-Farm Energy Program.

Responding to Co-Chair Stone, the speakers detailed some of the requirements of the On-Farm Energy Program, a cost-share program aimed at enabling farmers to increase energy efficiency in their operations. In response, Rep. Stone described the on-farm energy cost-share grants as "seed money" for farming endeavors.

Responding to Representative McKee, Mr. Neaveill made note of grants awarded under the Deceased Farm Animal Program. Mr. Neaveill indicated that he did not readily know how many counties operate disposal services for dead farm animals, but could provide that information later.

Mr. Neaveill and Mr. McCloskey summarized the statewide and regional agricultural investments approved in the prior board meeting: Kentucky Horticulture Council, approved for $1.3 million in state tobacco settlement funds to provide technical support to farmers through multiple council programs; Kentucky Dairy Development Council (KDDC), $2,108,500 to continue various KDDC education and promotion programs; Gateway Farmers Market, Warren County, $220,000 in state funds and $61,500 in county funds to build a regional farmers market and renovate a building for a commercial kitchen; Kentucky Department of Agriculture $3,490,000 to fund several facets of the Kentucky Proud agricultural marketing and promotional program; Kentucky Beef Network, $1,869,016 for programs to educate and assist cattle farmers; Todd County Fiscal Court, $30,000 for a feasibility study to look at the potential development of natural gas supply for portions of Todd County; Franklin County Fair and Horse Show, $2,100 for upgrades to a multipurpose pavilion; Jessamine County 4-H Council, $3,000 for a country ham curing house. Ballard County Board of Education, $4,396 to be used for purchase of equipment and materials for a high school greenhouse; LaRue County Extension District Board, $2,500 for a country ham curing structure; Appalachian Alternative Agriculture of Jackson County, $21,000 for operating capital for a regional food center.

The speakers responded to committee members' questions on the KDDC funding and the state of the dairy industry in Kentucky. Mr. Neaveill said that while the number of producers has declined, milk production has remained steady. During the discussion, Senator Parrett lauded the funding commitment and said he believed that even though the number of producers has declined, but not the number of dairy cattle. Because of the KDDC funding and rising milk prices, dairy producers have been able to invest in new equipment, according to Senator Parrett.

During the Gateway Farmers Market discussion, Co-Chair Stone told the committee the market is part of a significant development endeavor in Bowling Green.

Responding to Representative Quarles, Mr. Neaveill said he was not aware of any year-round enclosed farmers markets in Kentucky, although a market in Pleasureville buys farmers' commodities and will be a year-round operation.

In answer to Co-Chair Hornback, Mr. Neaveill said he did not know what percentage of Kentucky Proud dollars is spent on Kentucky-produced commodities, but would obtain that information from the Department of Agriculture. He noted that one part of the Kentucky Proud program, Restaurant Rewards, provides incentives to eateries that buy Kentucky foodstuffs.

The speakers told the committee that $2 million-plus in matching funds going to the Kentucky Beef Network is in the form of in-kind services provided by the University of Kentucky. Responding to Representative Mills, Mr. Neaveill said funds to be used for water and nutrient management would be spent on education materials.

Committee members had several questions and comments on the Todd County Fiscal Court natural gas supply feasibility study. Senator Parrett alluded to a possible precedent in granting the funding. Mr. McCloskey explained the Todd County Agricultural Council endorsed the project funding and the board looks at those local level approvals as "county decisions." He also said Todd is an agricultural county and is attempting to attract businesses. He said the county is looking for ways to obtain low-cost utilities that would help the agriculture industry.

Responding to Representative Denham, who asked if the applicant would be eligible for additional funding should the feasibility study turn out favorably. According to Mr. McCloskey, the board may be reticent to commit funds to a natural gas project but could receive consideration if a project benefits farmers. Representative Denham informed the speakers that a community in his district has a similar project. He mentioned the economic woes still being felt in rural areas and the loss of jobs because of outsourcing.

In answer to Co-Chair Hornback, the speakers explained the rationale in funding the Appalachian Alternative Agriculture of Jackson County endeavor. GOAP staff indicated that the Kentucky Center for Agriculture and Rural Development is assisting the enterprise. According to Mr. McCloskey, producers are using the facility to help process, package, label, and market their food products, but not enough people are using the facility to help create a positive cash-flow situation. They also mentioned some long-term governance problems.

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

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes of the 1st Meeting of the 2015 Interim

January 20, 2015

Call to Order and Roll Call

The 1st meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, January 20, 2015, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. John Hicks, Deputy State Budget Director; Mr. John Covington, Executive Director, Kentucky Infrastructure Authority; Mr. Ryan Barrow, Executive Director, Office of Financial Management; Mr. Colin Underhill, managing owner, Heritage Green Development, LLC; and Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission.

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

Election of House Co-Chair

Josh Nacey, Committee Staff Administrator, indicated that pursuant to KRS 45.790, a Co-Chair election was needed for the positions of Senate and House Co-Chairs. Representative Rudy nominated Representative Sinnette for the position of House Co-Chair. The motion was seconded by Representative Wayne. Representative Rudy then made a motion that nominations cease and that Representative Sinnette be elected House Co-Chair by acclamation. The motion was seconded by Representative Wayne and approved by voice vote.

Election of Senate Co-Chair

Senator Carroll nominated Senator Girdler for the position of Senate Co-Chair. The motion was seconded by Senator Girdler. Senator Carroll then made a motion that nominations cease and that Senator Girdler be elected as Senate Co-Chair by acclamation. The motion was seconded by Senator Girdler and approved by voice vote.

Approval of Minutes

Senator Carroll made a motion to approve the minutes of the December 16, 2014, meeting. The motion was seconded and approved by voice vote.

Information Items

Mr. Nacey said there were three information items to report. The first was a status report on the Louisville-Southern Indiana Ohio River Bridges Project from the Kentucky Public Transportation Infrastructure Authority. The second was the quarterly status reports on capital projects for the Administrative Office of the Courts; the Commonwealth Office of Technology; the Finance and Administration Cabinet and the universities that manage their own capital construction programs. The final item was an advertisement to lease space for the Office of the State Treasurer in Franklin County.

Representative Wayne noted that there was no mention in the Kentucky Public Transportation Infrastructure Authority report of an update on the environmental justice impact as required by federal law. He asked if a letter could be sent from the committee to Transportation Cabinet Secretary Mike Hancock requesting a status report on the environmental justice impact report. The committee concurred with the decision and asked staff to request a reply by next committee meeting.

Lease Reports from the Finance and Administration Cabinet

Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet, presented 2 items. The first item was a lease renewal for the Department of Corrections in Fayette County. The lease was for 10,967 square feet (sq ft) at $10.66 per sq ft for an annual total of $116,908.

Senator Carroll made a motion to approve the renewed lease. The motion was seconded by Representative Sinnette and approved by roll call vote.

The second item was for a lease modification for the Kentucky State Nature Preserves Commission in Franklin County, eliminating its office space and retaining its laboratory space at its current location, reducing the annual rent by $61,146. The lease will now cover 1,628 square feet (sq ft) at $8.95 per sq ft for an annual total of $14,571 through June 30, 2020.

Senator Carroll made a motion to approve the lease modification. The motion was seconded by Representative Sinnette and approved by roll call vote.

Project Reports from the Finance and Administration Cabinet

Mr. John Hicks, Deputy State Budget Director, presented two items. The first was an appropriation increase request of $375,000 from Eastern Kentucky University for the Commonwealth Hall Partial Repurposing and Renovation project. The project was approved in 2014 Regular Session House Bill 235 for $2,500,000 from restricted funds. The increase is to fund unforeseen HVAC repairs, bringing the total project cost to $2,875,000.

Senator Carroll made a motion to approve the appropriation increase. The motion was seconded by Representative Rudy and approved by roll call vote.

The second item was a report of a pool project in excess of $600,000. The Department of Fish and Wildlife Resources reported a $1,473,850 pool project allocation to the Eagle Creek Tributary-Union County project. The project will establish 7,750 feet of tributaries to Eagle Creek in Union County. The appropriation was funded from Department of Fish and Wildlife Resources 2010-2012 and 2014-2016 Fees-in-Lieu-Of Stream Mitigation Pools. No action was required.

Kentucky Infrastructure Authority (KIA)

Mr. John Covington, Executive Director, Kentucky Infrastructure Authority, presented three items. The first item presented was a Fund A loan for the City of Frankfort in Franklin County. The request was for a $3,731,000 loan for the West Frankfort Pump Station project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $229,365.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Representative Sinnette and approved by roll call vote.

The second item presented was a Fund A loan for the City of Harrodsburg in Mercer County. The request was for a $1,420,000 loan for the Wastewater Collection System Rehabilitation project. The loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $79,431.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Representative Rudy and approved by roll call vote.

The third item presented was a Fund B loan for the Bracken County Water District in Bracken County. The request was for a $358,000 loan for the KY 19 Master Meter to Kelly Ridge project. The loan will have a 20-year term, an interest rate of 1.75 percent, and a debt service payment of $22,008.

Senator Carroll made a motion to approve the new loan. The motion was seconded by Representative Sinnette and approved by roll call vote.

Reports from the Office of Financial Management (OFM)

Mr. Ryan Barrow, Executive Director, OFM, presented four items. The first item was a new bond issue for Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Asset-Backed Notes, Series 2015-1 (Taxable LIBOR Floating Rate Notes). The purpose of the bond issue was to finance rehabilitated Federal Family Education Loan Program (FFELP) loans and to retire the outstanding auction rate securities (ARS). The proposed sale date is February 16, 2015. The true interest cost was one month LIBOR plus 0.80 percent and it was a negotiated transaction with Hawkins Delafield & Wood LLP, bond counsel; Bank of America Merrill Lynch, underwriter; OFM, financial advisor; and Bank of New York Mellon, trustee.

Representative Rudy made a motion to approve the new bond issue. The motion was seconded by Senator Carroll and approved by roll call vote.

The second item was a new bond issue for Kentucky Housing Corporation Tax-Exempt Multifamily Housing bonds for the benefit of Heritage Green Apartments (Kingston Place), in an amount not to exceed $18,700,000. Proceeds from the funding loan will finance the acquisition, rehabilitation, and equipping of a multifamily residential rental facility, Heritage Green Apartments, by Heritage Green Development, LLC, consisting of approximately 556 units located in Louisville, Kentucky.

Representative Wayne asked if local legislators were informed of the project. Mr. Barrow replied that legislators from the area had been notified.

Representative Wayne asked for a more specific description of the project location in Louisville. Mr. Colin Underhill, developer and owner Heritage Green, clarified that the location was in South Louisville near Iroquois Park.

Representative Wayne made a motion to approve the new bond issue. The motion was seconded by Senator Carroll and approved by roll call vote.

The third item was a follow-up report for Kentucky Housing Corporation Single Family Housing Revenue Bonds, 2014 Series B, to refund certain prior bonds for economic savings. The anticipated net proceeds were not to exceed $30,000,000 and were priced on November 25, 2014 at a rate of 3.366 percent. It was a negotiated sale and Kutak Rock served as bond counsel; Citigroup as underwriter; Peck, Shaffer & Williams, a division of Dinsmore & Shohl, as underwriter's counsel; Office of Financial Management as financial advisor; and Bank of New York Mellon as Trustee. No action was required.

The fourth item was a follow-up report for Kentucky Housing Corporation Tax-Exempt Indebtedness for the benefit of Roosevelt House, LLLP, in an amount of $22,080,000. Proceeds from the funding loan will finance the acquisition, rehabilitation, and equipping of a multifamily residential rental facility, Roosevelt House, by SOCAYR, Inc., consisting of approximately 320 units located in Owensboro, Kentucky. No action was required.

In response to a question from Representative Wayne asking if local legislators had been notified, Mr. Barrow said they had.

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

Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission, reported ten school bond issues with SFCC debt service participation with a total par amount of $93,025,000. The state portion of the annual debt service payment was $1,654,135 and the local contribution was $8,201,831. Five issues will be re-funding outstanding debt and five will be funding new school projects. The bond issues did not involve tax increases.

Senator Carroll made a motion to approve the school bonds. The motion was seconded by Representative Rudy and approved by roll call vote.

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

Mr. Nacey said two local bond issues were reported to the committee. Each bond issue has 100 percent local debt service support and involves no School Facilities Construction Commission participation. No tax increases were required for either issue.

No action was required.

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

With there being no further business, the meeting was adjourned at 1:25 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

January 26, 2015

Call to Order and Roll Call

The meeting of the Public Pension Oversight Board was held on Monday, January 26, 2015, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests:

Representative Arnold Simpson; Representative Derrick Graham; Dolores Morris, Cora LePorin, LaNoma Banks, Kathleen Wright, and Daniel Flaherty, members of Kentucky Employees Retirement Systems; Lowell Reese, Kentucky Roll Call; Debbie Wesslund and Dan Anderson, Kentucky School Boards Association; and Beau Barnes, Kentucky Teachers Retirement Systems, among others.

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

Approval of December 15, 2014, Minutes

Co-Chair Bowen moved that the minutes be approved. Mr. Jefferson seconded, and the minutes were approved without objection.

Kentucky Retirement Systems Investment Update

David Peden, Chief Investment Officer, provided the December investment update. He said in the aggregate the portfolio for down 92 basis points for December and 98 basis points for the fiscal year. He provided the fiscal year numbers to date for each individual pension system. The KERS nonhazardous plan is down 61 basis points, which is right on top of the benchmark, while the KERS hazardous plan is down 1.17 percent, which is slightly under the benchmark that is down 79 basis points. The CERS nonhazardous plan is down 1.07 percent, which is below the negative 75 basis points of the benchmark, while the CERS hazardous plan is down 1.05 percent versus its benchmark that was down 75 basis points. The SPRS plan is down 1.08 percent versus its benchmark of 81 basis points. The U.S. equity market in the KRS pension asset allocation is the only positive contributor. The S&P 500 through December was up 6.12 percent. The Russell 3000 used for the U.S. equity benchmark was up 5.25 percent. The KRS U.S. equity portfolio was up 4.22 percent, and KRS is trailing its benchmark mostly because passive investing is outperforming active investing managers in the portfolio and growth is outperforming value managers. The non-U.S. equity class continues to be the biggest drag on the portfolio, and through December the all cap weighted index (ACWI) benchmark was down 8.81 percent. The fixed income allocation is slightly positive for the month, up 58 basis points, versus the benchmark of 1.31 percent, and Mr. Peden noted there is more credit in the portfolio than in the benchmark and interest rate sensitive fixed income is performing better than credit oriented fixed income. He said the second reason for negative return is that the real return portfolio has inflation sensitive assets, which have been affected by the lack of inflation in the U.S., and because there is discussion of the Federal Reserve not increasing rates in 2015 because of the low level of inflation. Therefore, all the assets in the portfolio that are designed to hedge against inflation are not performing well. The absolute return class, or hedge funds, real estate, and private equity, are positive contributors. Mr. Peden said that the asset balance for the KERS nonhazardous plan through December is $2.347 billion. At the last meeting he provided estimated numbers for the employer contribution amounts for the nonhazardous plan, but the actual numbers to date are $322 million, which has exceeded what was contributed in fiscal year 2014. The employee contributions for the plan for the fiscal year to date are $41 million. The contributions to the plan will be about $731 million and the amount being paid out in benefits and expenses has not changed much from the prior fiscal year, which is about $900 million in payout. Mr. Peden indicated that if investment performance is flat and the budgeted numbers stay the same, the shortfall between contributions and benefit payments will be about $168 million, and he noted that the full funding of the actuarially required contribution (ARC) is making a huge difference as compared to prior years.

Bill Thielen, Executive Director of KRS, stated that if there were no investment returns this year and going forward, with the assets KRS has and the contributions at 100 percent of the ARC, KRS can continue to pay benefits in the range of six to seven years. He noted that the asset returns and 100 percent of the ARC contribution are critical.

Responding to questions by Co-Chair Yonts, Mr. Peden said that the $168 million is the amount of assets that would need to be sold to meet the benefit payout obligations because there was not enough money earned to make those payments and that it would not affect the next budget cycle but it will be incorporated in the actuarial analysis and may increase the ARC slightly. The shortfalls in the non-U.S. equity class attributable to recessionary and global concerns is the rise in the dollar, which would be discussed in more detail at the February meeting, but the strengthening of the dollar is negatively impacting the performance of that asset class. He said that the KRS may change its exposure to emerging markets equities, but it would likely not materially change its exposure to the non U.S. equity markets overall.

Mr. Thielen noted that the currency hedging program that KRS had in place a few years ago was designed to hedge against what is occurring currently in the markets, but the program was criticized and the KRS board ultimately ended the program. However, he noted that if the program was still in place the plan assets would be protected from the currency environment that KRS operates in today.

Relating to earlier concerns of staff turnover at KRS, Mr. Peden reported that KRS has hired two new employees who began working the first week in January and that there are two vacancies remaining to be filled. Also, in response to a question by Mr. Jefferson at the last meeting concerning changes in KERS' asset allocation versus the other retirement systems, he stated that five years ago when the asset allocation modeling study was performed KRS had already made changes so that KERS looked different than the other systems. The KERS nonhazardous plan has no stand-alone exposure to emerging market equity, and although they do have emerging market equity in the ACWI it is not a dedicated four percent target to emerging market equity like the other systems, which is a reduction in risk already in place. In addition, that system has more core fixed income exposure and a higher cash target than the other nine portfolios, which contributes to a lower risk profile and is reflected in the fiscal year to date numbers that are down only 60 basis points versus the other systems that are down more than one percent.

Co-Chair Bowen commented that when the General Assembly returns to session he will be filing a bill, Senate Bill 10, that identifies savings that the state can realize and that it includes language that the savings should be applied directly to the ARC. He encouraged everyone to look at the bill and provide any comments for consideration.

Mr. Thielen noted that KRS had issued a press release regarding posting of investment manager fees by individual investment managers within asset classes, which was provided to the members in their folders, and he said he would be happy to answer any questions the Board may have concerning those fees. He also mentioned the KRS Summary Annual Financial Report received previously in place of the comprehensive report, which has become expensive to produce, that has been posted online. He also stated that the KRS has several studies underway, such as the Asset Liability Modeling Study that is planned to be reported to the KRS board at its May meeting, and that he will bring those results to the PPOB shortly thereafter. A request for proposal (RFP) is in its final stages for an actuarial audit that will be submitted after review by the audit committee and the KRS board in February. The results of that actuarial audit should be completed about the end of May. KRS is in the process of developing a RFP for a study of investment fees and commissions as they relate to other public pension plans nationally, which hopefully will be ready by the end of May as well, and another RFP is being developed that will study the KRS administrative structure and costs relative to other pension plans nationally, with plans for this study to be completed by the end of September. He said a classification and compensation study, and an organizational structure study, were completed in 2012 by a national firm, CBiz Human Resources, and are being updated.

In response to a question by Senator Higdon relating to the management fees, Mr. Peden stated that preferred return is the amount of money needed for a client to get their investment back plus the preferred return prior to a charge of interest or performance fee. The management fee is paid annually, or depending on the asset class, could be paid on committed capital or actual dollars invested with the manager. The performance fee is paid if the fund performs well. If the capital and preferred return is met, the manager keeps $0.20 for every dollar made for the client, which he noted incentivizes the manager to do a better job. Mr. Thielen pointed out that all the fees are consistent with industry standards and are presented to the KRS investment committee and the KRS board when considering the hiring of an investment manager.

Kentucky Teachers' Retirement System

Gary Harbin, Executive Secretary, and Eric Whopper, Deputy Executive Secretary, of the Kentucky Teachers' Retirement System, were present.

Co-Chair Yonts indicated that the presentation that the Board would be hearing from the LRC Staff on peer comparisons showed that the investment returns for the KTRS for one year ending June 30, 2014, was 18.1 percent, the three year return was 11.3 percent, the return over five years was 13.7 percent, and performance over the last ten years was 7.2 percent. Co-Chair Yonts also commented that the KTRS is doing well and the $3.3 billion bond issue over the next 30 years that is being considered by the

General Assembly would increase the KTRS funded status from 51 percent to 61 percent. He also said there is a bill dealing with the oversight by the PPOB that was contemplated when the pension task force was in place. The issue was that KERS needed oversight, but the bill did not include oversight of the judicial, legislative, and teachers' retirement systems in the task force. When the bill was passed that reformed the pensions for KERS the PPOB was created as recommended by the task force. Co-Chair Yonts stated that the PPOB needs the support of KTRS to bring that system into the oversight of the PPOB. Co-Chair Yonts indicated that there is a perception among teachers that they are not a part of state government. Co-Chair Yonts asked Mr. Harbin to relay to KTRS retirees that they are a part of state government and should support the proposed bill to bring the KTRS, judicial, and legislative systems into the oversight of the PPOB.

Mr. Harbin provided the PPOB information on the proposed funding for the 2014-2016 budget and the request of a $3.3 billion bond to stabilize cash flows in the KTRS.

Investment Peer Comparison

LRC staff members, Brad Gross and Bo Cracraft, testified about investment returns of KRS relative to its peers.

Mr. Cracraft indicated that the presentation would cover five topics of discussion. The majority of the presentation would be focused on investment performance relative to peers and a couple of study topics approved as part of the recommendations with regard to investment expense and disclosure, as well as a review of oversight structure and organizational structure of the retirement plans. He discussed the year-end results for the period ending June 30, 2014, and support data used to calculate a median return and asset allocation reflected in the presentation was also provided. He noted that three peer group results were compared, and that since the August meeting the LRC created peer group of state employee plans has increased from 20 to 44 states. In reviewing peer group returns, staff looked at the policy benchmark, which is the targeted weights for each asset class, and that one of the stated goals of KRS and most pension plans are to exceed the return of the policy benchmark. The KRS nonhazardous pension plan portfolio for the one, five, and ten year performance period has matched or exceeded the benchmark return. The insurance portfolio for the nonhazardous plan has a different benchmark target and has performed below the benchmark from an absolute standpoint. The second return target is the assumed actuarial rate assumption of 7.75 percent. This is the rate that is in process of being decreased to 7.5 percent in the future. As of June 30, 2014, in the short term of one to five years, KRS has exceeded the return target; however over the ten year period both the pension and insurance plans have fallen short. Staff also included the KTRS results for the same period and that KTRS exceeded their policy benchmark and the peer group over the one to five year period. He noted that the decade has been difficult for all the peer groups and that neither KRS nor its peers hit the 7.75 percent benchmark over the last ten years.

The presentation included a historic asset allocation for U.S. public pension funds for the last 25 years. During the mid 80s, data showed that pension plans were predominately fixed income and cash focused and the alternative asset class was minimal and consisted primarily of real estate and publicly traded real estate investment trusts (REITs). The historical data reflected that toward the end of the century funds migrated toward a more equity driven portfolio and there was the beginning of a growth in alternative assets that was largely comprised of the early stages of private equity asset placement. In the last five years, equity has been diversified and the 2012 pension and investments study reported an average allocation of about 20 percent to alternative investments and most recently a Cliffwart study reported an average allocation to this asset class of about 25 percent in 2013. As a point of clarification, Mr. Cracraft indicated that reference to alternatives incorporates multiple sub-asset classes and includes public and private real estate, private equity or venture capital partnerships, distressed debt or leverage buyout agreements. He stated that real return is largely inflation protected securities and also includes real assets such as timber or commodities, and that hedge funds represent absolute return. He noted that staff has tried to consistently group state data in the review based on the alternative allocation categories, regardless of the terms used by a particular state plan.

Staff also provided historic asset allocation for the KRS for the last 14 years, and they noted the trend is similar to the industry allocation. For example, at the turn of the century KRS was largely a public equity portfolio with about a quarter of the portfolio in fixed income, whereas holdings in real estate were just under five percent and the remainder was held in cash. However, as with the overall industry, over the last 15 years KRS slowly diversified out of public equity and increased the exposure to alternative assets. Recently KRS has reintroduced real estate to the portfolio and added a dedicated allocation to real return. In 2014, KRS had a 34.5 percent allocation to alternatives.

The average peer group comparison shows that state plans hold about 51 percent in public equity, comprised of both U.S. and non-U.S. equities. KTRS had 63 percent in equity as of June 30, 2014. KRS is also in line with the fixed income and cash compared to its peers, and KTRS is in line with peer groups for fixed income.

Mr. Cracraft noted that deciding how to manage assets will affect the expected return, and that the decision to hold more or less of an asset class affects the total fund return. Public equities have been the strongest performing asset class for KRS over the past five years. However, KRS has taken a different approach by holding less in public equity over the last five years, with an average return of 14 percent per year, and holding more in diversified alternatives, which has earned four percent for the same period. Mr. Cracraft said that plans with higher exposure to equities have outperformed plans invested in other classes. The allocation differences between the top ten and bottom ten funds of the 44 plans based on an average five year return reflected that the top ten funds had an average equity exposure of over 57 percent of the plan, which was above the median fund exposure of 54 percent. Also, the top ten funds had less average allocation in alternatives, at 19.8 percent versus the median of 20.4 percent. The ten funds that performed below the median had an equity exposure of approximately 46.5 percent, and those bottom funds had an overweight to alternative allocations at 29.5 percent - most of which was in an allocation to hedge funds. Six of the bottom ten funds had an allocation to hedge funds with an average weight of six percent, whereas in the top ten funds only three had any exposure to hedge funds and only one had an allocation with an average weight of greater than one percent. He said that KRS from an asset allocation standpoint looks much like the bottom list of managers and the average returns are similar. He pointed out that KTRS had an allocation to equity of about 63 percent at the end of the fiscal year and an allocation to alternatives of 12 percent and their asset allocations are more in line with the top ten portfolios.

Mr. Cracraft indicated that asset allocation and comparison to a policy benchmark is driven through the process of an asset liability modeling study, which is normally done about every five years by third party consultants and coincides with the experience study when evaluating the assumptions. The study not only looks at assets of a plan or the expected returns of a particular asset class, but also tries to match the pension assets relative to the liabilities that the benefits are generating. It incorporates expected capital market return of each of the asset classes and incorporates the volatility expected. The output is that the KRS board and investment committee then generates policy portfolios with an expected return and an expected risk that they believe are most efficient mixes of assets to get to a targeted return of 7.75 percent (or 7.5 percent going forward) and to best match the liability stream generated on the benefit side. Asset allocations are important decisions because on average 90 percent of a plan's total return is driven by the asset allocation each fiscal year. One of the difficulties KRS or KTRS faces when doing an asset liability modeling study is dealing with the pressure of what is occurring in today's markets. For example, the peer comparison asset liability study for the fiscal year ending June 30, 2008, was a negative 4.2 percent and showed that the median fund had less equity and more alternatives, with the diversification to alternatives providing stability. However, for the period ending June 30, 2014, the median fund reflected more assets in equity with less in alternatives, with U. S. equities being the strongest and most stable asset class. Mr. Gross noted that some of the data was discussed during the public pension workgroup in 2008 and there was an investment consultant hired by the workgroup, and that at the time one of the things they noted was that KRS and KTRS had less exposure to alternatives and the conclusion was that the plans needed to be more diversified in alternatives moving forward.

Mr. Cracraft stated that for the period ending June 30, 2014, the returns were improved at a positive 15.6 percent, and the average five year return was at 12.0 percent versus the 8.5 percent in 2008. This shows that what was working in 2008 is not working currently. The plans that have more equity, and specifically U.S. equity, are outperforming those plans that have less exposure to this asset class, and the asset class has had low volatility compared to its historical average. Also notable is that alternatives provided a downside protection in 2008, but those same assets are now dragging down overall performance because the asset class is underperforming the public equity markets. He noted that it is difficult to project or plan asset decisions for ten or 20 years without looking at what is occurring in the market and that it is difficult to avoid the short term pressures to make adjustments.

The summary on peer comparison investment data shows that KRS appears to have taken a different approach as to how assets are allocated. There is an underweight of public equity and a higher allocation to alternative assets compared to the larger peer group, and based on the large peer group performance comparison this approach has resulted in a head wind because of the strong equity market returns. The other question posed to staff was whether there are other plans in the peer group that are investing similar to KRS. Mr. Craycraft said there were nine plans in the peer group that were not identical but very similar to the asset allocation chosen by KRS. The ten plans, including Kentucky, have a healthy allocation to hedge funds, with an average weight of 10.7 percent, as well as to private equity, real return, and real estate. The ten plans have an average allocation to equity of 41.3 percent and to fixed income at 19.7 percent, which is also in line with KRS. The average returns of the ten plans for one year is 16.1 percent and the ten year average is at 7.0 percent, which is slightly higher than Kentucky's net return of 15.6 percent for one year and 6.8 percent for 10 years and is within a tolerable range. The average return over the last ten years for this peer group has been 7.0 percent, and only three of the ten groups have met the target over the ten year period, with the returns of two groups, Louisiana and West Virginia, being primarily explained by an equity exposure of about 55.0 percent. Therefore, when compared to plans taking a similar approach as KRS, the returns are in line with the other peer groups although slightly under performing.

In response to questions by Mr. Jefferson with respect to the ten peer groups and what the funded status looks like in those plans, Mr. Cracraft indicated he could not answer that question today but it is an item that will be incorporated in future study. Mr. Jefferson applauded the information provided as being very beneficial and helpful. The information provided in the asset liability study will lead the KRS investment committee and the trustees to select an asset allocation. He said that many times the asset allocation has to fit meeting the liabilities so the funded status of those liabilities has a significant impact on the asset allocation decision, and he was curious as to whether Louisiana or Massachusetts has a similar funded status as Kentucky. Mr. Cracraft indicated that staff would begin working on obtaining that information and bring it back to the PPOB at a future meeting. Mr. Gross noted that prior to the 2010 asset liability modeling study there was a consistent allocation across all funds and in 2010 KRS began to deviate specifically in the nonhazardous pension fund. He said in this next asset liability modeling study it is likely that the KERS nonhazardous fund will continue to deviate from the other funds largely because of cash flow needs and liquidity.

Co-Chair Bowen, expanding on questions and comments by Mr. Jefferson, suggested that any research include not only the unfunded liability of those states but what they used for their benchmark or goal as well as the cash flow situation currently and whether those states have the same challenges as Kentucky is facing.

Mr. Cracraft discussed investment expenses in fiscal year 2014 and disclosure of those expenses, contracts, and agreements. The total investment expense of KRS as reported on the Comprehensive Annual Financial Report (CAFR) was $46.3 million, which equates to 40 basis points of the total fund. KTRS during the same period reported a total fee of 22 basis points, which equates to $37.2 million. In using the same LRC peer group for 33 funds, the median expense for the peer group was 36 basis points, slightly below KRS, and the average was just under one-half percent at 45 basis points, or slightly above KRS. Mr. Cracraft noted that fees can be misleading depending on the manner fees are reported and/or analyzed. For example, global equity is the highest amount of fees as a percent by dollar amount, but as a percent of assets the average fee for global equity is 24 basis points, whereas for real estate the fees by dollar amount appears lower, but the average fee as a percent of assets is 99 basis points. Mr. Cracraft said that for this reason comparing CAFRs for expense data is not ideal. He said that the Governmental Accounting Standards Board (GASB) requires that plans include an investment expense and changes of net assets that all states do include, but that GASB is not clear on what should be included and how it is included. In comparing investment expenses, there are direct and indirect costs and not all plans report the indirect costs in the financial statements, which makes it difficult in comparing expenses. The direct expenses are expenses invoiced directly to the retirement system and a check is written to pay the manager fee. The indirect costs are those expenses that are not invoiced directly but the expense is either capitalized in the value of the investment or netted against income or against the distribution. Also, the internal investment staffing and administrative expenses are not consistently reported by states. Kentucky does not include investment staff expense in its reporting.

Another area staff discussed that has been mentioned previously is how much disclosure KRS provides relative to their peer group. Mr. Cracraft said that GASB is clear that investment expense must be incorporated into the CAFR, but GASB does not state at what level that data is required to be provided. The majority of the peer groups report by asset class, but many report by manager and some provide a total amount. Mr. Cracraft said that KRS reports consistently with the majority of plans by asset class, but he noted that more plans are beginning to incorporate manager level data, including KTRS. KRS is also beginning to disclose investment fees on the KRS website, and he noted that the rates reported are the maximum that would be paid, but not necessarily the actual fees paid by KRS.

LRC staff is making reasonable efforts to identify the states that have disclosures on holdings, fees, and commissions publicly available without going through a formal process to obtain the information, but so far they were unable to find any investment manager contracts.

Mr. Gross indicated there has been discussion among states about disclosure and how much information should be provided, particularly as it relates to alternative investments. 2015 House Bill 49 would require KRS, KTRS, and JFRS to disclose holdings, fees, and commissions by manager and would make contracts available upon request and online. He said there has also been discussion in North Carolina about two competing proposals with varying levels of disclosure, one being pushed by employee groups and the other a proposal being supported by the state auditor. One of the proposals would require all direct and indirect fee disclosure by a manager, the other would require additional reporting and an external review of the investments once every four years, with some disclosure provided to the state auditor of public accounts and the legislature upon request. However, he noted that no bills have passed in North Carolina to date.

Responding to a question by Mr. Jefferson relating to direct and indirect expenses and what is included and not included in Kentucky's forty basis points total investment expense, Mr. Cracraft stated the forty basis points figure includes all investment manager fees, such strategy fees, consulting fees, custody fees, software packages, data agreements, etc. He also said it is his understanding after talking with KRS staff that they have attempted to go back and add back private equity type fees to the disclosures.

Mr. Cracraft discussed the investment structure for the broader peer group for the 50 state plans by evaluating the organizing statutes, investment policies, etc. Mr. Gross stated that the investment structure is a focus the PPOB requested for review in 2015. There are four categories, and all fifty plans fall into these categories or basic models. The integrated model, the most common model, includes KRS and KTRS. In this model there is a single fiduciary board with responsibility for investment and benefit administration delegated through an executive director or secretary, or a position similar to a CEO. The second most common model is the segregated investment model with two separate entities with their own fiduciary boards. One board is responsible for oversight of the investment of the pension assets and the other board is responsible for benefit oversight. Another model is the single fiduciary board with a separate investment function, which is similar to the integrated model but delegates the investment and benefit functions separately to a chief investment officer and executive director who report independently to a board. He noted that only five states function under this model. The fourth model is the sole fiduciary, which is least common, and is where the responsibility of the investments and benefits are vested in an elected or appointed state official such as a treasurer or comptroller.

Mr. Cracraft indicated that both KRS and KTRS have an integrated model for handling investments. In comparing the two systems, KRS has thirteen trustees, of which six are appointed by the Governor appointed, six are elected by the membership, one is ex-officio, and two of the appointed trustees are required by statute to have ten years of investment experience that is defined by statute. The investment committee is comprised of five trustees, with three appointed by the KRS board chair and two trustees that are required to have investment experience. KTRS has nine trustees, with seven elected by its members and two ex-officio. There are no statutory qualifications for the trustees, and the system's investment committee consists of five trustees appointed by the board and two non-voting external investment advisors.

In reviewing the investment structure for performance, Mr. Cracraft identified three broad categories to consider. One was the model used, another was the board's level of expertise, and the third was the value placed on the people involved in the process or the stability of the plan. In reviewing the ten states with higher ten year returns and the ten states with lower ten year returns, the similar structures yield different results. The segregated or single entity separated approach appears more successful and the most common structure or integrated structure is the least successful. He noted that based on the results the only two states using the sole fiduciary model are at the bottom of the ten states reviewed. Continuity of leadership is important and in a sole fiduciary model elections can result in turnover that may impact performance.

Mr. Cracraft stated that states have taken different approaches as to how they have built their boards and that of the 46 states that have a fiduciary board responsible for oversight of investments, 39 states have a board that is largely appointed or ex-officio and Kentucky falls into this category. About half of the 46 states have statutory language that places some level of requirement on a minimum of investment expertise. In comparing the states of Montana, South Dakota, and Colorado as to language contained in their statutes for expertise, he noted that South Dakota has the least amount of detail in their statute, but it is one of the better performing funds and has been for a long period of time. Conversely, Montana has more detail and requires more expertise in the board composition statutes, but it is at the bottom of the states reviewed for fund returns. He said there were some states that incorporate an independent investment council or advisory committee, which would include a mix of trustees and external non-member individuals with voting and non-voting members that participate on the board, similar to the structure KTRS has adopted. He said states are trying different compositions to incorporate some level of expertise on the board to assist in their decisions.

Mr. Cracraft indicated that continuity and stability in an organization is important. Using Indiana as an example, he noted that a few years ago the state consolidated the employee and teachers' staff retirement systems into one system and in the process created turnover at the staff level and the ten year returns reflected that instability. Similarly, over the last ten years KRS has had four leadership changes and has had recent departure of investment professions, and the transition process can impact performance.

Co-Chair Yonts summarized House and Senate bills that have been filed in the 2015 Regular Session relating to retirement. He announced that the Board's next meeting would be February 23.

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

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

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

February 10, 2015

Call to Order and Roll Call

Government Contract Review Committee met on Tuesday, February 10, 2015, at 5:15 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; Representatives Jim Gooch Jr., Brad Montell, and Brent Yonts.

Guests: Charlie Harman, Robin Herbert, and Karla Miller.

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

A motion was made by Representative Yonts to approve the minutes of the July 2014, meeting. Representative Montell seconded the motion, which passed without objection.

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ACCOUNTANCY, BOARD OF:

8700 Corporation, 1500001051.

CORRECTIONS, DEPARTMENT OF:

Correct Care Solutions, LLC, 1500001046.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Marylee Underwood, 1500000972.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Ross Tarrant Architects, Inc., 1500001017; GRW Engineers, Inc., 1500001022; Sherman Carter Barnhart, 1500001025; Hafer Associates, 1500001053; Tate Hill Jacobs Architect, Inc., 1500001065.

JUVENILE JUSTICE, DEPARTMENT OF:

Abel Screening, Inc., 1500001211.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Women's Crisis Center, 634.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Government Technology Advisors, LLC, 15-007.

MILITARY AFFAIRS, DEPARTMENT OF:

Abdul Kader Dahhan, MD PSC, 1500001119.

NURSING, BOARD OF:

Judy C. Amig, 1500001215.

TRANSPORTATION CABINET:

E. Clark Toleman Mai, 1500001031; Eric R. Fegan Enterprises, LLC, 1500001062; WMB, Inc., 1500001099; CDP Engineers, Inc., 1500001103; James Hamilton Thompson, 1500001220; HMB Professional Engineers, Inc., 1500001230; Parsons Brinckerhoff, Inc., 1500001276; QK4, Inc., 1500001282; Palmer Engineering County, 1500001283.

UNIVERSITY OF KENTUCKY:

GBBN, A151180; Dell Marketing, K15-127; KPMG, LLP, K15-223; Parrallon Business Solutions, LLC, K15-224; Education Resource Strategies, Inc., K15-225; Labyrinth Solutions, Inc., (LSI Consulting), K15-226.

WESTERN KENTUCKY UNIVERSITY:

Multi, 141521

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Roy W. Hunter, CPA, 1400003843.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

URS Corporation, 1000001352.

DEPARTMENT FOR INCOME SUPPORT:

The Visions Group, LLC, 1400000930.

DEPARTMENT FOR PUBLIC HEALTH:

National Jewish Health, Inc., 1400001076.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services, Inc., 1000001217; Linebach Funkhouser, Inc., 1000001607; ICA Engineering, Inc., 1100001321; K Norman Berry Associates, 1300002050; Stantec Consulting Services, Inc., 1400000625; Tate Hill Jacobs Architect, Inc., 1400003721; Omni Architects, 1500000941.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Dean Dorton Allen Ford, PLLC, 598.

PERSONNEL-OFFICE OF THE SECRETARY:

Blue & County LLC, 1400002046; Blue & Company, LLC, 1400002605.

TRANSPORTATION CABINET:

Burgess and Niple, Inc., 0700003887; HNTB Corporation, 0700004077; CDP Engineers Incorporated, 1000000961; HDR Engineering, Inc., 1100001727; Gresham Smith and Partners, 1300001306; E A Partners, PLC, 1300001718; Stantec Consulting Services Incorporated, 1300001775; Strand Associates, Inc., 1300001854; Bluegrass Valuation Group, LLC, 1500000185; Gresham Smith and Partners, C-99005237-5; W M B Incorporated, C-99005584-6.

UNIVERSITY OF KENTUCKY:

Sasaki Associates, Inc., A131070; THP Limited, Inc., A131110; Sherman Carter Barnhart, A141070.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1500001324; Morehead State University, 1500001325; Morehead State University, 1500001328; Shepherds House, Inc., 1500001333; Project Unite, 1500001334; Communicare Incorporated Adult, 1500001335; River Valley Behavioral Health, 1500001337; Pennyroyal Mental Health, 1500001338; Bluegrass Prevention Center, 1500001339.

AGRICULTURE, DEPARTMENT OF:

Hart County Fair, 1500001317; Oldham County Fair, 1500001318; Meade County Fair Incorporated, 1500001319; Muhlenberg County Fair, 1500001320; Franklin County Fair Association, 1500001321; Marshall County Fair, 1500001322.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1500000823.

EDUCATION, DEPARTMENT OF:

Daviess County Board of Education, 1500001077; Fayette County Board of Education, 1500001078; Collaborative for Teaching and Learning, Inc., 1500001100.

FISH & WILDLIFE, DEPARTMENT OF:

City of Paducah, 1500000331.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1500000910; Multi, 1500000948; University of Kentucky Research Foundation, 1500001071.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Laurel County Fiscal Court, 1500001157; Bourbon County Fiscal Court, 1500001236.

TRANSPORTATION CABINET:

Elizabethtown Community and Technical College, 1500000965.

UNIVERSITY OF KENTUCKY:

Kentucky Appalachian Transition Services, MOU-002-15.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Mountain Comprehensive Care Center, 1200001398; Mountain Comp Care Center, 1200002073; Kentucky River Community Care Incorporated, 1200002078; Morehead State University, 1200002084; University of Kentucky Research Foundation, 1200002134.

AGRICULTURE, DEPARTMENT OF:

Multi, 1400001677; Multi, 1500000995.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1400001073; Multi, 1400001156; Multi, 1400001159; Multi, 1400001160; Multi, 1400002654.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Eastern Kentucky University, 1400000885.

EDUCATION, DEPARTMENT OF:

Treasurer Jefferson County Board of Education, 1400002692; KCTCS, 1400003665; Morehead State University, 1400003725; Western Kentucky University Research Foundation, Inc., 1400003730; Eastern Kentucky University, 1400003740; Advanced - Kentucky, 1400003748.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Henderson County Fiscal Court, 1300001434; Knott County Fiscal Court, 1500000046.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF:

Correct Care Solutions, LLC, 1400002555. A motion was made by Representative Yonts to defer the contract to the March meeting of the committee. Representative Horlander seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF:

Collaborative Center for Literacy Development, 1500001107. Charles Harman, Robin Herbert, and Karla Miller discussed the contract with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

EXEMPTION REQUEST:

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium in order to execute the Kentucky Proud Promotional Grant Program. A motion was made by Representative Yonts to grant the request to December 31, 2017. Representative Horlander seconded the motion, which passed.

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requests an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements for extending beyond the current biennium in order to execute the Kentucky Proud Restaurant Rewards program. A motion was made by Representative Yonts to grant the request to March 31, 2017. Representative Horlander seconded the motion, which passed.

With no further business, the meeting was adjourned at 5:36 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January Meeting

January 13, 2015

Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, January 13, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Leanne Diakov, Michael Rodman, Board of Medical Licensure; Nathan Goldman, Paula Schenk, Board of Nursing; Karen Waldrop, David Wicker, Department of Fish and Wildlife; Amy Barker, Department of Corrections; Casey Hall, Michael Kurtsinger, Ann-Tyler Morgan, Jeremy Rodgers, Fire Commission; Frederick Higdon, Stephen Humphress, Department of Alcoholic Beverage Control; Mitch Buchanan, Jim Chandler, Brian Judy, Board of Home Inspectors; Michael Davis, Gary Feck, Melissa Highfield-Smith, Department of Housing, Buildings and Construction; Laura Begin, Kraig Humbaugh, Allyson Taylor, Department of Public Health; Matt McKinley, Beth Jurek, Department of Public Health, Radiation Health Branch; Leslie Hoffmann, Natalie Kelly, Stuart Owen, Department for Medicaid Services; Elizabeth Caywood, Department of Community Based Services, Jeff Hinkley, HVAC Services Inc., Tim House, Tom Lowder, Stephen Strong, Kentucky Association of Master Contractors, Kevin Kavanagh MD, Mark Norenberg, Air Conditioning Contractors of America, Indoor Environment and Energy Efficiency Association, David Tretter, Neiheisel Plumbing Inc.

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

The Administrative Regulation Review Subcommittee met on Tuesday, January 13, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:310. Continuing medical education. Michael Rodman, executive director, and Leanne Diakov, general counsel, represented the board.

A motion was made and seconded to approve the following amendment: to amend Section 5 to require one (1) rather than two (2) hours of continuing medical education in HIV/AIDS every ten (10) years to match the current statutory requirement. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 9:450. Fee schedule regarding acupuncturists.

201 KAR 9:460. Written plan.

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

Board of Nursing: Board

201 KAR 20:220. Nursing continuing education provider approval. Nathan Goldman, general counsel, and Paula Schenk, executive director, represented the board.

In response to a question by Co-Chair Harris, Mr. Goldman stated that it was necessary to reduce the renewal period for approved continuing education from five (5) to two (2) years in order to maintain tracking in light of significant turnover.

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 the STATUTORY AUTHORITY paragraph to insert a citation; and (3) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:240. Fees for applications and for services.

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

301 KAR 2:221 & E. Waterfowl seasons and limits. Dr. Karen Waldrop, deputy commissioner, and David Wicker, general counsel, represented the department.

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

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

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the Subcommittee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

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

739 KAR 2:060. Certification and qualifications of fire service instructors. Casey Hall, curriculum and degree program coordinator; Michael Kurtsinger, division director; and Anne – Tyler Morgan, counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend Section 1 to insert a definition for "fire protection instructor"; (3) to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 7 to clarify that certification shall not be reinstated for an instructor whose certification has lapsed for a period exceeding three (3) years. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Local Administrators

804 KAR 10:031. Local government regulatory license fees. Frederick Higdon, commissioner, and Stephen Humphress, general counsel, represented the department.

In response to questions by Co-Chair Harris, Mr. Humphress stated that, because city classifications had been statutorily eliminated, requirements in this administrative regulation were tiered based on population. A few legislative amendments were needed to update the department's statutes commensurate with the elimination of city classification.

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

Office of Occupations and Professions: Board of Home Inspectors: Board

815 KAR 6:040. Home inspector prelicensing providers. Mitch Buchanan, board member; James Chandler, chair; and Brian Judy, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend Sections 1, 3, and 7 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 7 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:080. Continuing education provider.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the TITLE and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 5 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Division of Building Code Enforcement: Kentucky Building Code

815 KAR 7:120. Kentucky Building Code. Michael Davis, general counsel; Gary Feck, acting commissioner; and Melissa Highfield - Smith, budget director, represented the division. Jeff Hinkley, general manager, HVAC Services, Inc; Tim House, executive director, Kentucky Association of Master Contractors; Mark Norenberg, general HVAC contractor, Indoor Environment and Energy Efficiency Association (formerly Air Conditioning Contractors of America); and David Tretter, president, Neiheisel Plumbing, Inc., appeared in opposition to the fee increases in this administrative regulation; 815 KAR 8:010, 8:020, 8:070, and 8:090; and 815 KAR 20:015, 20:030, 20:050, 20:195.

In response to questions by Senator Raque Adams, Ms. Highfield – Smith stated that stakeholders had been informed of these fee increases and some had commented during the public comment period. Mr. House stated that deferral of these administrative regulation would probably not be beneficial. The department was unable to prevent the sweeping of funds. The Office of State Budget Director initiated budget decisions regarding sweeping, and the budget was then enacted by the General Assembly. The Kentucky Association of Master Contractors believed that the current financial challenges faced by the department included Commonwealth Office of Technology charges, pension and health insurance premium cost increases, and repayment of a floating salary payment from 2012 (to be paid in July 2016).

In response to a question by Senator Kerr, Mr. Davis stated that internal boards and committees within the division met with stakeholders and, after those discussions, approved these fee increases unanimously.

In response to questions by Representative Turner, Mr. Davis stated that the fee increases were necessary for mandatory expenses. The HVAC and plumbing programs were not meeting their respective revenue needs. The increases were carefully developed to meet fiscal needs without new employees. The increases were targeted to maintain necessary activities without overages that may be subject to being swept by the General Assembly. Funds were swept in 2012 because there were overage funds remaining at that time. Stakeholders were among the members of the internal boards and committees that voted for these fee increases unanimously. Mr. House stated that the Kentucky Association of Master Contractors and other stakeholders worked with the department, not the cabinet, to provide stakeholder input pertaining to the development of these fees. Mr. House explained that in Fiscal Year 2011 – 2012, all Commonwealth employees were delayed salary payments on June 30 to July 1, which was a new fiscal year. As a result, there was a floating salary payment that would have to be paid at some point.

Co-Chair Marzian stated that these programs were operating in the red. These programs were crucial for public safety. Health insurance premiums and pension requirements had increased for this agency. Mr. Davis stated that these fees did not directly impact individual tradesmen. Co-Chair Marzian stated that it was important to carefully review sweeping of restricted funds in Executive Branch budget proposals.

In response to a question by Co-Chair Harris, Mr. Davis stated that these fees were based on calculations, such as square footage or plumbing components.

Mr. House stated that the Kentucky Association of Master Contractors was opposed to these fee increases. Continued sweeping of funds was negatively impacting the division and its mandate to protect public safety. Restricted funds were not intended for use in the General Fund. These fee increases were necessary because of previous sweeping of funds. Fund transfers routinely occurred without approval of the agency or its internal boards and committees. The Kentucky Association of Master Contractors was not opposed to fee increases if it could be guaranteed that the revenue would stay within each applicable program because the division had properly managed funds; it was only the result of sweeping that had caused the shortfall.

Mr. Hinkley stated that HVAC Services, Inc. had public safety concerns because of swept fee revenue. There were numerous unlicensed individuals performing substandard work in the Commonwealth, but the division does not have the financial resources to enforce requirements for licensees, nonetheless unlicensed individuals.

Mr. Tretter stated that businesses were already facing challenges from recent economic conditions, which were improving but were not back to pre-2009 levels. These fee increases would affect businesses. Sweeping of revenue from the plumbing program into the General Fund was the main concern. In the past, plumbers had ascended to fee increases only to have the funds swept and fee increases proposed anew.

Mr. Norenberg stated that Indoor Environment and Energy Efficiency Association (formerly Air Conditioning Contractors of America) was opposed to these fee increases and was concerned about public safety and the sweeping of funds.

A motion was made by Representative Turner, seconded by Senator Raque Adams, to find these administrative regulations deficient. After further discussion, these motions were withdrawn.

Division of Heating, Ventilation and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:010. Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

815 KAR 8:020. Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

815 KAR 8:070. Installation permits.

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

815 KAR 8:090. Fees and refunds.

Division of Plumbing: Plumbing

815 KAR 20:015. Fees and refunds.

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival, or reinstatement of licenses.

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 4 to specify criteria for determining the sufficiency of the applicant's mechanical engineering experience; and (3) to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:050. Installation permits.

815 KAR 20:195. Medical gas piping installations.

A motion was made and seconded to approve the following amendment: to amend Section 2 to correct an inadvertent omission. Without objection, and with agreement of the agency, the amendment was approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:020. Reportable disease surveillance. Laura Begin, regulation coordinator; Dr. Kraig Humbaugh, senior deputy commissioner; and Allyson Taylor, policy advisor and chief of staff, represented the cabinet. Representative Tom Burch, House District 30; Dr. Kevin Kavanagh, Health Watch U.S.A.; and Dana Stevens, infection control for St. Joseph Hospitals, appeared in support of this administrative regulation.

Dr. Kavanagh stated that Health Watch U.S.A. strongly supported this administrative regulation because it addressed dangerous organisms. Currently, there had not been a uniform response protocol, as shown by worldwide response to the recent E. bola crisis. This was a problem with the entire healthcare system and needed to be addressed at that level.

In response to a question by Senator Kerr, Dr. Kavanagh stated that Health Watch U.S.A. was a small, nonprofit watchdog group that stressed consumer choice and transparency.

Ms. Stevens stated that she helped to develop legislation for disease control. She thanked Representative Burch for his efforts developing this administrative regulation, and she looked forward to ongoing dialogue with the cabinet.

In response to questions by Co-Chair Harris, Dr. Humbaugh stated that each medical facility designated one (1) person to report to protect against multiple reports of the same incident, which would create inaccurate reporting. A tracking number was then issued by the local health department. Co-Chair Harris stated that it was important to put in safeguards to protect against duplicate reporting.

Division of Public Health Protection and Safety: Radiology

902 KAR 100:012. Fee schedule. Laura Begin, regulation coordinator; Matt McKinley, branch manager; Beth Jurek, executive director; and Allyson Taylor, policy advisor and chief of staff, represented the cabinet.

In response to a question by Senator Raque Adams, Mr. McKinley stated that fees were raised to a level that was seventy-five (75) percent of the average same fees for surrounding state programs. The percentile of actual fee increase varied from fee to fee. Ms. Begin stated that comments were received during the public comment period, and this administrative regulation had been amended to provide a lower fee for smaller entities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 2, 3, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

907 KAR 3:005 & E. Coverage of physicians' services. Leslie Hoffmann, behavioral health director; Natalie Kelly, division director; and Stuart Owen, regulation coordinator, represented the cabinet.

Senator Kerr applauded the cabinet's attempt to create parity between physical and behavioral health programs.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete a reference to "advanced practice registered nurse" in the definition of "common practice" and change references in the definition of "provider group" from "Medicaid provider number" to "Medicaid group provider number"; (2) to amend Section 2 to require a provider to date and sign the health record within seventy-two (72) hours from the date of the service, rather than the same day of service; (3) to amend Section 4 to clarify, in accordance with 42 C.F.R. 455.410, that: (a) a provider is required to be currently enrolled and participating in the Medicaid Program to prescribe medication, order a service, or refer a recipient for service; and (b) the department shall not reimburse for a prescription, service, or referral if the provider is not currently enrolled and participating in the Medicaid Program; (4) to amend Section 8 to delete non-physician independent providers from the list of providers who provide services for which a physician or provider group (which includes a physician) would be the billing provider; and (5) to amend Sections 1, 2, 4, 6, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Behavioral Health

907 KAR 15:070 & E. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:075 & E. Reimbursement provisions and requirements for behavioral health services provided by residential crisis stabilization units.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to delete provisions regarding nonduplication of services because those provisions are already included in 907 KAR 15:070; and (2) to amend Sections 4 and 5 to comply with the formatting requirements of KRS 13A.220(5). Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Protection and Permanency: Adult Services

922 KAR 5:050. Funding requirements for domestic violence shelters. Elizabeth Caywood, internal policy analyst, represented the cabinet.

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 the STATUTORY AUTHORITY paragraph to delete citations; and (3) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the February 9, 2015, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

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

Senator Clark stated that it was important that this administrative regulation accommodate patients with reported THC levels.

Board of Licensure for Occupational Therapy: Board

201 KAR 28:010. Definitions and abbreviations.

201 KAR 28:020. General provisions.

201 KAR 28:030. Short-term practice of occupational therapy for persons practicing under KRS 319A.090(1)(e).

201 KAR 28:060. Requirements for licensure.

201 KAR 28:070. Examination.

201 KAR 28:090. Renewals.

201 KAR 28:110. Fees.

201 KAR 28:130. Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders.

201 KAR 28:140. Code of ethics and unprofessional conduct.

201 KAR 28:170. Deep physical agent modalities.

201 KAR 28:180. Temporary permits.

201 KAR 28:200. Continuing competence.

201 KAR 28:220. Per diem of board members.

JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: Council

503 KAR 1:090. Approval of course curriculums.

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

601 KAR 14:020. Bicycle safety standards.

Department of Highways: Division of Maintenance: Billboards

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Instructional Programs

705 KAR 4:250. Energy technology engineering career pathway.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

The Subcommittee adjourned at 2:20 p.m. until February 9, 2015, at 1 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

March 12, 2015

Call to Order and Roll Call

The Government Contract Review Committee met on Thursday, March 12, 2015, at 2:00 PM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Dennis Horlander, Co-Chair; Senator Julian M. Carroll; Representatives Jim Gooch Jr., Brad Montell, and Brent Yonts.

Guests: Hilarye Dailey, Cookie Crews, David Talley, Eric Pelfrey, and John Michael Johnson.

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

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

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

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Saybolt L.P., 1500001353.

CORRECTIONS, DEPARTMENT OF:

Northkey Community Care, 1500001358.

EASTERN KENTUCKY UNIVERSITY:

Wendell Wilson Consulting, LLC, 16-067; Bullhorn Creative, 16-072.

EDUCATION, DEPARTMENT OF:

WestEd, 1500001371.

EDUCATIONAL TELEVISION, KENTUCKY:

Mary Paulynn Lorenzo Covington, 1500001286.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Patrick D. Murphy Company, Inc., 1500001237; Omni Architects, 1500001238; EOP Architects, PSC, 1500001370; Staggs and Fisher Consulting Engineers, Inc., 1500001373.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Teachers College, Columbia University, The Community College Research Center, 635.

KENTUCKY HOUSING CORPORATION:

Tax Credit Asset Management, LLC, 2015-16-1.

KENTUCKY STATE UNIVERSITY:

ERP Analysts, Inc., 15-20.

KY RACING COMMISSION:

LGC Science, Inc., 1500000097.

MILITARY AFFAIRS, DEPARTMENT OF:

Federal Resources Supply Company, 1500001122.

NORTHERN KENTUCKY UNIVERSITY:

Art & Science Group, LLC, 682-15.

PHYSICAL THERAPY, BOARD OF:

Neuropsychology Consultants, PLLC, 1500001277.

POST SECONDARY EDUCATION, COUNCIL ON:

The Lampo Group, Inc., 1500001225.

TOURISM DEVELOPMENT CABINET:

Wyatt Tarrant and Combs, 1500001429.

TRANSPORTATION CABINET:

Thomas Ray Garner, 1500001243; Summit Engineering, Inc., 1500001248; Construction Estimating Institute of America, Inc., 1500001251; Integra Realty Resources Kentucky Southern Indiana, LLC, 1500001253; Intequal-Duncan Appraisal, 1500001389; QK4, 1500001396; Booker Engineering, Inc., 1500001398; Stantec Consulting Services, Inc., 1500001400.

UNIVERSITY OF KENTUCKY:

Impel Creative, Inc., K15-228; Conrad Design, K15-229; Kari Maloney Photography and Design, LLC, K15-230; Shatterbox, LLC, K15-231; T2 Design, K15-232; Serif Group, K15-233; 2Revolutions, LLC, K15-234; Apax Software, K15-235.

WESTERN KENTUCKY UNIVERSITY:

Revolution-Productions, Inc., 141532.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Core Laboratories L.P., 1400001986.

DEPARTMENT FOR INCOME SUPPORT:

Lea J. Perritt Ph. D, 1400000914; Psych, Inc., 1400002448; Michelle D. Bornstein, 1400002449; Kay Barnfield Psy. D PSC, 1400002450; Tonya R. Gonzalez, 1400002451; Julie B. Jones, 1400003630.

DEPARTMENT FOR MEDICAID SERVICES:

Myers and Stauffer LC, 1400001088.

DEPARTMENT FOR PUBLIC HEALTH:

Norton Healthcare, Inc., 1400001204; Volunteers of America of Kentucky, Inc., 1500000393.

EDUCATION, DEPARTMENT OF:

One Plus Services, 1400003770; Thomas P. Miller and Associates, 1500000666.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services, Inc., 1300002153.

JUVENILE JUSTICE, DEPARTMENT OF:

Keith Hardison, 1400003321.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Spartanburg Community College, 611.

MEDICAL LICENSURE, BOARD OF:

Multi, 1400002582; Multi, 1400002582.

MOREHEAD STATE UNIVERSITY:

Deanna Proctor, 15-043.

MURRAY STATE UNIVERSITY:

Maguire Associates, 016-15.

PERSONNEL-OFFICE OF THE SECRETARY:

Cannon Cochran Management Services, Inc., 1400001823.

TRANSPORTATION CABINET:

QK4, 0600002166; Burgess and Niple, Inc., 1100000206; GRW Engineers, Inc., 1100001198; J M Crawford and Associates, Inc., 1200001322; Michael Baker Jr., Inc., 1200001733; QK4, 1200003576; QK4, 1300001567; Lochner H W, Inc. Consulting, 1300001654; Palmer Engineering County, 1300001866; EA Partners, PLC, 1300002066; American Engineers, Inc., 1400000002; Baptist Health Occupational Medicine, 1400003392; Gresham Smith and Partners, C-05260813; DLZ Kentucky, Inc., C-99005073-12; Johnson Depp and Quisenberry, C-99005431-1.

UNIVERSITY OF KENTUCKY:

Selge Holding & Ventures, LLC d/b/a Wheless Partners Executive Search, K15-129.

Workers Claims, Department of:

Underwriters Safety and Claims, Inc., 1400001321.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001218.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Cabinet for Workforce Development, 1500001098.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Seven Counties Services, 1500000970.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Nicholas County Conservation District, 1500001108; Jackson Purchase RC and D, 1500001229; Bullitt County Fiscal Court, 1500001401.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Midwest Energy Efficiency Alliance, 1500001219.

EDUCATION, DEPARTMENT OF:

Carroll County Board of Education, 1500000619; Jefferson County Board of Education, 1500001080; Warren County Board of Education, 1500001091; KASC, 1500001102; Fayette County Board of Education, 1500001224; Kentucky Valley Education, 1500001245; Ohio Valley Education Foundation, Inc., 1500001269; Monroe County Board of Education, 1500001273; Bourbon County Board of Education, 1500001278; Floyd County Board of Education, 1500001279; Whitley County Board of Education, 1500001280.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Todd County Fiscal Court, 1500001345; Breathitt County Fiscal Court, 1500001347; Martin County Fiscal Court, 1500001348; Montgomery County Fiscal Court, 1500001362; City of Morehead, 1500001372; Ballard County Fiscal Court, 1500001375; City of Murray, 1500001376; Letcher County Fiscal Court, 1500001379; Letcher County Fiscal Court, 1500001380; Pendleton County Fiscal Court, 1500001402.

THE FOLLOWING MEMORANDA OF

AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1100001230; Multi, 1300001593.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1400001066.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Louisville/Jefferson County Metro Government, 1400001459; Tri County Community Action Agency, 1400001466; Big Sandy Area Development District, 1400001750.

DEPARTMENT FOR MEDICAID SERVICES:

Department of Insurance, 1400001012.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

University of Kentucky Research Foundation, 1400002757.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Western Kentucky University Research Foundation, 1400003279.

EDUCATION, DEPARTMENT OF:

Murray Independent Board of Education, 1400001667; Southeast/Southcentral Educational Coop, 1400002675; Murray State University, 1400003351; KCTCS, 1400003776; Allen County Board of Education, 1500000011; Bath County Board of Education, 1500000017; Boyd County Board of Education, 1500000019; Covington Independent Board of Education, 1500000021; Edmonson County Board of Education, 1500000023; Simpson County Board of Education, 1500000029; Livingston County Board of Education, 1500000040; Scott County Board of Education, 1500000048; Union County Board of Education, 1500000052.

FAIR BOARD:

Louisville Downtown Management District, 1500000748.

FISH & WILDLIFE, DEPARTMENT OF:

Mammoth Cave Resource Conservation & Dev Area Incorporated, 1500000428; University of Wisconsin, 1500000942.

INFRASTRUCTURE AUTHORITY:

Cumberland Valley Area Development District, Inc., 1500000174.

JUSTICE CABINET:

University of Kentucky Research Foundation, 1500001030; University of Kentucky Research Foundation, 1500001089.

KY RACING COMMISSION:

University of Kentucky Research Foundation, 1300002124.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Whitley County Fiscal Court, 1300001119; City of Barbourville, 1500000452; Muhlenberg County Fiscal Court, 1500000586.

FEBRUARY 2015 DEFERRED ITEM

Corrections, Department of:

Correct Care Solutions, LLC, 1400002555. Hilarye Dailey and Cookie Crews discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

TRANSPORTATION CABINET:

KPMG LLP, 1500001387; eTrans KY, Inc., 1500001388. David Talley discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Montell seconded the motion, which passed.

TRANSPORTATION CABINET:

Integrated Engineering, PLLC, 1500001416. Eric Pelfrey and John Michael Johnson discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

A motion was made by Senator Carroll and seconded by Representative Montell to request LRC to study Transportation Cabinet engineer salaries, which passed without objection.

With no further business before the committee, the meeting was adjourned at 2:47 p.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

February 13, 2015

Call to Order and Roll Call

Program Review and Investigations Committee met on Friday, February 13, 2015, at 8:45 AM, in Room 327 of the Capitol. Representative Martha Jane King, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Martha Jane King, Chair; Senators Danny Carroll, Perry B. Clark, Ernie Harris, Christian McDaniel, Dorsey Ridley, and Whitney Westerfield; Representatives Jim DeCesare, Terry Mills, and Rick Rand.

LRC Staff: Greg Hager, Committee Staff Administrator and Kate Talley, Committee Assistant.

Representative King welcomed Senator Carroll as a new member of the committee, noting that he replaces Senator Higdon.

Representative King asked for nominations for a Senate Co-Chair, stating that Senator McDaniel has resigned the position.

Senator McDaniel nominated Senator Carroll. Senator Ridley seconded the motion. Senator Clark made a motion that nominations cease and that Senator Carroll be elected by acclamation. Senator Harris seconded the motion. There being no objections, Senator Carroll was elected by acclamation.

The meeting adjourned at 8:49 AM.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the 7th Meeting of the 2014 Interim

December 10, 2014

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Wednesday, December 10, 2014, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Rita Smart, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Rita Smart, Co-Chair; Senator David P. Givens; Representatives Tim Couch, Joni L. Jenkins, and Mary Lou Marzian.

Legislative Guests: Representatives Derrick Graham and Arnold Ray Simpson.

Guests: David Wickersham, Kelly Foster, and Kevin Brown, Kentucky Department of Education; Sue Cain, Council on Postsecondary Education; and Clyde Caudill, Kentucky Association of School Administrators.

LRC Staff: Janet Stevens, Jo Carole Ellis, and Lisa Moore.

Approval of Administrative Regulations

Kevin Brown, Associate Commissioner and General Counsel, Kentucky Department of Education (KDE), said 703 KAR 5:260 is a new regulation and 703 KAR 5:122 will repeal 703 KAR 5:120 and 703 KAR 5:180.

Donna Little, Committee Staff Administrator, explained the suggested amendments to 703 KAR 5:260. The summary of the suggested amendments are located in the meeting folders in the Legislative Research Commission (LRC) library.

Representative Jenkins moved to accept the amendments to 703 KAR 5:260, and Representative Marzian seconded the motion. The motion carried by voice vote.

Kelly Foster, Associate Commissioner, Office of Next Generation Schools and Districts, KDE, said the purpose of combining the two regulations was to have all the information regarding priority schools in one location. The regulation will allow KDE to work with school leadership in low-performing schools to assist in the implementation of intervention options in priority schools and districts to help improve student achievement.

Dave Wickersham, Staff Attorney, Office of Guiding Support Services, said the Elementary and Secondary Act (ESEA) flexibility waiver submission requires Kentucky to develop a process to identify and serve priority schools and is outlined in 703 KAR 5:120, which KDE is seeking to repeal. KDE is also seeking to repeal 703 KAR 5:180, which outlines the intervention system. Both administrative regulations are several years old, and repealing them would eliminate some overlap that can confuse the affected school districts.

Responding to a question from Representative Marzian regarding the new administrative regulation affecting the agreement between the Jefferson County Teacher Association (JCTA) and the Jefferson County Public Schools (JCPS) priority schools, Mr. Wickersham said he does not think the changes in the regulation affect the agreement. There was a conflict with the collective bargaining agreement, and the parties involved must continue to negotiate pursuant to the terms of their agreement and agree to waive or modify any part of that agreement that conflicts with statute, or to select an intervention option that does not violate the agreement. Mr. Brown said JCTA and JCPS have negotiated, and the new regulation will not affect interactions.

Responding to a question from Senator Givens, Ms. Foster said the administrative regulation affects a priority school that has been in the bottom five percent for three years in a row and has not met its annual measurable objective (AMO) for three years. Mr. Wickersham explained that the two regulations being repealed are outdated. The ESEA flexibility waiver requires KDE to develop a priority school process outlined in KRS 703 KAR 5:120 and 703 KAR 5:180, and combine relevant parts into one new regulation.

Representative Marzian moved to accept 703 KAR 5:260, and Representative Jenkins seconded the motion. The motion carried by voice vote.

Senator Givens moved to accept 703 KAR 5:122, and Representative Jenkins seconded the motion. The motion carried by voice vote.

Office of Education Accountability Report: A Look Inside Kentucky's College and Career Readiness Data

Karen Timmell-Hatzell, Acting Director, Office of Education Accountability (OEA), introduced Deborah Nelson, Research Analyst (OEA), and Gerald Hoppman, Director of Research. Dr. Nelson said beginning in 2012, Kentucky's *Unbridled Learning* accountability system included a measure of graduates' readiness for college or a career (CCR). This measure reflects policymakers' concerns that students graduate from high school with the skills necessary to succeed in postsecondary education or the work force. Since the measure was introduced, CCR rates have climbed steeply, from 47 percent in 2012 to 62 percent in 2014.

Dr. Nelson said college or career readiness rates are generally reported as a single percentage but comprise three different components: college ready; college and career ready; and career ready. Within each component, KDE uses a variety of indicators to determine graduates' readiness. The report analyzes the components and indicators that make up CCR, looking at how each has changed over time and varies among schools and different types of students.

Dr. Nelson said to be considered ready for college, students can meet college-ready benchmarks set by the Kentucky Council on Postsecondary Education (CPE) in English, math, and reading on one of three tests: the ACT college readiness test or two college placement tests, the ACT Compass (Compass), or Kentucky Online Testing System (KYOTE). The report looks at percentages of graduates who are college-ready by different measures and offers some preliminary data on the college outcomes for students who are college ready by different measures.

Dr. Nelson said the reports use high school graduation data from KDE and the Kentucky Center for Education and Workforce Statistics (KCEWS). KCEWS collects and links data from KDE, CPE, and the Education and Workforce and Development Cabinet, among other agencies.

Dr. Nelson said KCEWS, which has also been called the "P-20 data system," compiles data that allows researchers to track outcomes from elementary and secondary students as they move into postsecondary education and the workforce. In large part because of the capacity of the data system, Kentucky ranks high among states by the Data Quality Campaign for its collection and use of education data.

Dr. Nelson said KCEWS data available for the report allows tracking of graduates into Kentucky colleges and universities but does not provide data on graduates who enrolled in out-of-state institutions, joined the workforce, or enlisted in the military.

Dr. Nelson said since the CCR measure was introduced in 2012, readiness rates have climbed steadily, from 47 percent of graduates in 2012 to 62 percent of graduates in 2014. Prior to 2012, the ACT was the primary measure used to determine graduates' college readiness. Gains since 2012 have come largely from students meeting college-ready benchmarks on the Compass and KYOTE tests or students meeting career-ready indicators. The percentage of graduates meeting readiness benchmarks on ACT tests has also increased but not as steeply as graduates identified as CCR by other indicators.

Dr. Nelson said the percentage of graduates who enroll in Kentucky colleges and universities and require remedial coursework in English, math, or reading has dropped substantially. In 2011, 54 percent of enrolled prior-year graduates required remedial coursework in at least one subject compared to 38 percent in 2013. During the same time period, the percentage of graduates enrolled in fall or spring has remained at about 56 percent for each year.

Responding to a question from Representative Simpson about whether the 56 percent includes private and for-profit university students, Dr. Nelson said the percentage includes private universities and community colleges. She will research whether for-profit universities and employees who are trained in-house are included.

Responding to a question from Senator Wilson regarding lab work being included as a co-requisite for remediation, Dr. Nelson said the data includes the percentage of students based on their status when they graduated who would have been required to have taken a class that was considered remedial in some way. It does not count course data of students enrolled and dividing them in different groups.

Dr. Nelson said the percentage of total CCR rates comprised of different components and indicators varies among schools and student groups. For example, schools vary in the percentage of students who are college ready by meeting benchmarks exclusively on ACT tests versus students meeting benchmarks on a combination of ACT, Compass, or KYOTE tests. In some schools, most of the students who are deemed college-ready meet CPE benchmarks exclusively on ACT tests. In other schools, less than 50 percent of college-ready students do so. The proportion of college-ready students who meet benchmarks on ACT tests is much lower in higher-poverty schools than in lower-poverty schools.

Responding to questions from Representative Graham, Dr. Nelson said to track the various groups of students over time, the Kentucky Student Information System (KSIS) would be needed. CPE has all the enrollment data but does not know which students were college-ready based on ACT benchmarks, Compass scores, or KYOTE scores. KDE data would have to be combined with data from the CPE to differentiate between the groups.

Responding to Representative Graham regarding the differences in security of administering the ACT, Compass, and KYOTE tests, Dr. Nelson said the ACT test can only be administered at certain times and at predetermined locations to a specific group of students, while the Compass and KYOTE tests can be administered to a single student at any time. Given the many different times and locations in which Compass and KYOTE tests are given, KDE must rely primarily on reports submitted by individuals to identify instances of inappropriate test administration.

Dr. Nelson said instances of inappropriate test administration might also be identified based on identification of unusual patterns in CCR test data or on discrepancies between a student's performance on the ACT tests and on other CCR tests. KDE has a contract with Caveon, a test security company, to review issues of security in Kentucky's testing programs, procedures, materials, and policies.

Dr. Nelson said the percentage of students who are deemed career ready has more than doubled since the measure was introduced, increasing from 8 percent in 2012, to 18 percent in 2014. The percentage of graduates reported by KDE as career ready would be even higher (26 percent in 2014) if the department reported all of the students deemed college and career ready as career ready. Because of inconsistencies in the criteria associated with these measures, some college and career ready students are not currently counted as career ready.

Dr. Nelson said the percentage of graduates who were college ready increased greatly between 2010 and 2012 but the percentage of graduates who enrolled in Kentucky colleges or universities the following year remained flat.

Dr. Nelson said college-ready students enroll in college and earn higher grades than do students who are not college-ready, but enrollment rates and grades vary for students deemed college-ready by different measures. Enrollment and persistence rates and GPAs are higher for students who meet all benchmarks on the ACT than for students who meet benchmarks on a combination of ACT, Compass, and KYOTE tests or on Compass and KYOTE tests alone.

Responding to a question by Senator Givens regarding the enrollment rate percentages in the gender differences not equaling 100 percent, Dr. Nelson said it is the percentage of all graduates.

Responding to a question from Senator Wilson, Dr. Nelson said GPAs from high school were not used as an indicator of college readiness for this study. However, she has seen research suggesting that GPAs may be as indicative as testing scores to determine student college readiness.

Responding to a question from Representative Jenkins regarding college-ready benchmarks on the ACT versus Compass and KYOTE tests based on students' eligibility for free or reduced-priced lunch, Dr. Nelson said the percentage of graduates who met CPE college readiness benchmarks was substantially lower for students who were eligible for the free or reduced-priced lunch program (41 percent) than for students who were not eligible (67 percent). Of college ready students, the proportion meeting benchmarks on all three ACT tests was lower for students eligible for the program (about one half) than it was for those not eligible (about three fourths). There is discussion about whether KDE should pay for students to retake the ACT after completing remediation classes. Currently, lower income students can take the Compass or KYOTE tests at no charge but can only take the ACT once.

Responding to questions from Senator Givens regarding the differences in GPAs of students who meet ACT benchmarks compared to students meeting college-ready benchmarks on the Compass and KYOTE, Dr. Nelson said students who meet Compass and KYOTE college-ready benchmarks have a 21 percent chance of earning a 3.0 GPA or higher versus college-ready ACT takers who have a 57 percent change of earning a 3.0 GPA or higher. The positive aspect is that Compass and KYOTE allow these students to be deemed college-ready and not have to complete remedial classes.

Representative Graham said it is encouraging that students are proving that they can perform if given the opportunity. Compass and KYOTE are saving money for families by not making students take remedial courses. It also saves universities money by not having to hire instructors to teach remedial classes.

Dr. Nelson said KYOTE and Compass allow students to take credit-bearing courses without remedial classes, which is a significant cost savings to the student. The validity of Compass and KYOTE is not questioned. In addition to the cost savings, students are making good grades and graduating earlier than if they had to take remedial courses.

Responding to a question from Representative Marzian, Dr. Nelson said the study did not compare how high school GPA would equate to the ACT, Compass, and KYOTE tests in terms of predicting college outcomes. The KSIS data system would allow this comparison, and the committee can request the study for the future. Representative Marzian commented that some universities are no longer requiring ACT or SAT scores for college admission.

Responding to a question from Senator Givens, Dr. Nelson said the percentage of graduates considered college-ready was not reported at the state level prior to 2012 by KDE. Prior to 2012, students were taking Compass and KYOTE but were not included in the accountability system. Some students are college-ready and others are permitted to take a credit-bearing course without remediation. For this reason, students should be separated for comparison purposes and not all grouped together.

Dr. Nelson said the cause of differences among schools in college-ready tests is unknown. In some schools the percentage of students who are college-ready as graduates is two or three times as great as the percentage of students who were college-ready when they took the ACT in the 11th grade. These jumps might reflect intensive effort by high schools to address students' academic deficiencies and ensure that they acquire the skills needed to succeed in college.

Dr. Nelson said there is evidence that the validity of some students' scores on ACT and Compass math tests may have been influenced by the use of "Zoom Math" calculator software that can solve algebraic equations. In 2013, postsecondary math educators in the Commonwealth raised concerns that, by using this software, it was possible for students to meet Kentucky benchmarks on ACT and Compass tests without understanding the content tested. The "Zoom Math" software was not allowed on KYOTE exams.

Dr. Nelson said KDE investigated and found evidence to support the concern that the software could lead to artificial inflation of math scores. KDE and ACT are removing the use of the calculator software beginning in 2015.

Dr. Nelson reported the OEA's recommendations to the study. A complete listing of the recommendations is located in the meeting folder in the LRC library.

Responding to a question from Representative Graham, Dr. Nelson said large differences in graduates' readiness rates on ACT tests and their readiness rates on Compass and KYOTE tests may reflect schools' intensive efforts to address students' academic deficiencies. It is possible that the discrepancy between ACT scores and Compass or KYOTE scores indicates inappropriate test administration practices in some schools.

Dr. Nelson said for students to be college and career ready they must meet the technical requirements of career readiness and pass the college readiness test. In Kentucky's accountability system, districts and schools are awarded extra points for students who are deemed college and career ready; these students meet the technical criteria for being considered career ready and also pass college readiness exams. College and career ready students are worth one and one-half points when CCR percentages are calculated in the accountability system. In 2014, the difference in the percentage of students CCR with and without the bonus calculation was less than ten percentage points in most high schools. Some educators have raised concerns over the bonus points.

Dr. Nelson said there is a discrepancy in criteria and some career ready students are not being reported. This is due to an inconsistency between KDE's definition of college and career readiness and its definition of career readiness results in underreporting of the total number of students who are career ready. This is an issue that affects reporting only and there are no negative consequences for schools or students. Schools receive additional bonus points for college and career ready graduates regardless of whether those graduates are reported as career-ready.

Dr. Nelson said KDE should not use the CCR measures as the sole or primary indicator when reporting progress of student outcomes over time or evaluating the impact of particular programs or policies. College or career readiness rates should not be used in isolation to compare student outcomes among districts and schools. Given the change over time in measures used to determine CCR, it is important to interpret changes in CCR rates with caution. Caution should also be used in drawing conclusions based on the CCR measure alone about the effectiveness of programs implemented during this time period or about changes in student learning.

Representative Marzian requested a study comparing the high school GPA and the ACT, Compass, and KYOTE test scores to determine college readiness. She also would like data on how many colleges and universities are deleting the requirement for a standardized college readiness testing score for admission. Dr. Nelson said the data would be interesting.

Responding to a question from Senator Wilson regarding KDE's response to the OEA study, Tracy Goff Herman, KDE legislative liaison, said KDE will prepare a written response to the study and distribute it to members.

Representative Graham thanked OEA for a useful report and said the information should help address the ongoing commitment to closing the achievement gaps.

Senator Givens would like to continue the dialogue between KDE and Dr. Nelson at the next EAARS meeting.

Senator Wilson moved to approve Kentucky's college and career readiness data report, and Representative Jenkins seconded the motion. The motion carried by voice vote.

Office of Education Accountability's Proposed 2015 Study Agenda

Ms. Timmel-Hatzell explained the proposed 2015 studies, which includes reports on student safety, the annual district data profiles, recess and physical education in the K-5 schools, biennial compendium on state rankings, and a primer for Kentucky independent school districts.

Senator Givens moved to approve the study agenda, and Senator Wilson seconded the motion. The motion carried by voice vote.

Other Business

At the request of Representative Smart and Senator Wilson, staff will work on getting the EAARS subcommittee a regular meeting date.

Adjournment

With no further business, the meeting adjourned at 11:45 AM.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February Meeting

February 9, 2015

Call to Order and Roll Call

The meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 9, 2015, at 2:30 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; Representatives Denver Butler, Will Coursey, and Tommy Turner.

Guests: Donna Brockman, Professional Learning and Assessment; Doug Hendrix, Pete McDonald, Troy Robinson, Finance and Administration Cabinet; Leanne Diakov, Mark Jorrisch, M.D., Michael Rodman, Board of Medical

Licensure; Matt James, Board of Licensed Diabetes Educators; Gerald Ross, Department of Criminal Justice Training; Laura Begin, Troi Cunningham, R.N., C. Darrell Jennings, M.D., Department of Public Health, Newborn Screening; Leslie Hoffmann, Natalie Kelly, Stuart Owen, Department of Medicaid Services; Phyllis Sosa, Tonia Wells, Department of Aging and Independent Living; Mary Sparrow, Steve Veno, Child Support Enforcement; Elizabeth Caywood, Jason Dunn, Mary Beth Jackson, Beth Jurek, Department for Community Based Support; Dr. Larry Suess.

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

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Assessment

16 KAR 6:010. Examination prerequisites for teacher certification. Donna Brockman, director of professional learning and assessment, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; and (2) to amend Section 2 to correct dates for consistency. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Fleet Management

200 KAR 40:010. Motor pool procedure. Doug Hendrix, deputy general counsel; Pete McDonald, director of fleet management; and Troy Robinson, executive director, represented the office.

In response to a question by Co-Chair Marzian, Mr. McDonald stated that the office sought energy-efficient, "green" vehicles for the fleet.

In response to a question by Co-Chair Harris, Mr. Robinson stated that the incorporated guides were revised to update information regarding texting prohibitions, Web site addresses, and mileage reimbursement tables.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, Sections 1 and 3, and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

200 KAR 40:020. Purchase, use, lease, maintenance, and disposal of state-owned motor vehicles.

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

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Leanne K. Diakov, general counsel; Mark Jorrisch, M.D.; and Michael Rodman, executive director, represented the board. Dr. Larry Suess, child psychiatrist, appeared in opposition to this administrative regulation.

In response to a question by Senator Clark, Ms. Diakov stated that a patient who had tested positive for THC was not automatically rejected from the program. The patient would be counseled by the physician, and the physician would determine if there was a need for a change to the treatment plan.

Dr. Suess stated that Kentucky was experiencing a high rate of heroin abuse. This administrative regulation's standard for treatment with Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone separated dependence treatment from the medical care system, which limited access to care and contributed to the stigma of getting treatment. The requirement to report information to the Kentucky Health Information Exchange was redundant because the information was already reported to the KASPER system. Additionally, the information was subject to security threats, such as hacking. Naloxone should be administered only with great caution to pregnant women, newborns, or women who are nursing. These medications were prohibited for patients taking certain other medications unless prescribed by an addition specialist. Because of the small number of addiction specialists, this may create an access problem for many patients. Dr. Suess requested that the board withdraw this administrative regulation or that the subcommittee find this administrative regulation deficient.

Ms. Diakov stated that the Cabinet for Health and Family Services requested that the information be reported to the Kentucky Health Information Exchange in order to promote information sharing for comprehensive care, and the security risk was no greater than any other threat to information in that system. Dr. Jorrisch stated that the standard of care established for treatment during pregnancy was shown as not harmful to mother or baby if administered orally. There was still a risk of misuse, which would then possibly have a harmful effect.

In response, Dr. Suess stated that the information required for the Kentucky Health Information Exchange was already available through the KASPER system and thus was redundant, doubling the risk to the security of the information. Additionally, the information may result in refusal of the insurance company to pay for the medication.

Co-Chair Harris requested that Dr. Suess continue to work with the board in the development of this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) use the term "prescribing or dispensing physician" rather than "physician"; (2) include generic forms of the treatment medications; (3) establish procedures if a patient is transferred from a previous treatment provider; and (4) specify that, after the second month of treatment, if the patient is progressing, the physician shall ensure that the patient shall be seen at least once monthly thereafter. 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. Matt James, assistant attorney general, represented the board.

201 KAR 45:120. Renewal, reinstatement, and inactive status.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to revise the form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: Council

503 KAR 1:090. Approval of course curriculums. Gerald Ross, assistant general counsel, represented the council.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 2, and 4 to specify curriculum submission requirements and approval procedures; and (4) to amend Sections 3, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Maternal and Child Health: Maternal and Child Health

902 KAR 4:030. Newborn screening program. Laura Begin, regulation coordinator; Troi Cunningham, RN, nurse administrator; and C. Darrel Jennings, M.D., associate director, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Cunningham stated that hospitals paid the fee for the newborn screening program and were billed monthly in a standard bundle. The fee was not charged for repeat screening.

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

907 KAR 15:040 & E. Coverage provisions and requirements regarding targeted case management for individuals with a substance use disorder. Leslie Hoffmann, director of behavioral health; Natalie Kelly, division director; and Stuart Owen, regulation coordinator, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to expand the types of Medicaid providers authorized to provide targeted case management services to include Levels I and II psychiatric residential treatment facilities for recipients under twenty-one (21), chemical dependency treatment centers for individuals with a substance use disorder, outpatient hospitals, and psychiatric hospitals; (2) to amend Section 4 to create an exemption to the targeted case manager educational requirements by waiving requirements for anyone who has provided or supervised targeted case management services any time from April 1, 2014 until the administrative regulation's effective date; (3) to amend Section 8 to: (a) remove the restriction that an individual who provides targeted case management services cannot provide any other services but establishes that the individual cannot provide any other services to the recipient to whom the individual is providing targeted case management services; and (b) establish an overall caseload cap for targeted case managers of twenty-five (25) recipients at one (1) time beginning October 1, 2015; (4) to amend Section 9 to correct citations to federal law; (5) to amend Section 10 to clarify that: (a) the timeframe for providing requested information to the department or a managed care organization shall be reasonable given the nature of the request and circumstances surrounding the request and shall be a minimum of one (1) business day; and (b) a targeted case management services provider may request a longer timeframe; and (6) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:045 & E. Reimbursement provisions and requirements for targeted case management services for individuals with a substance use disorder.

907 KAR 15:050 & E. Coverage provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to expand the types of Medicaid providers authorized to provide targeted case management services to include Levels I and II psychiatric residential treatment facilities for recipients under age twenty-one (21), chemical dependency treatment centers for individuals with a substance use disorder, outpatient hospitals, and psychiatric hospitals; (2) to amend Section 4 to create an exemption to the targeted case manager educational requirements by waiving requirements for anyone who has provided or supervised targeted case management services any time from April 1, 2014 until the effective date of the administrative regulation; (3) to amend Section 8 to: (a) remove the restriction that an individual who provides targeted case management services cannot provide any other services but establishes that the individual cannot provide any other services to the recipient to whom the individual is providing targeted case management services; and (b) establish an overall caseload cap for targeted case managers of twenty-five (25) recipients at one (1) time beginning October 1, 2015; (4) to amend Section 9 to correct citations to federal law; (5) to amend Section 10 to clarify that: (a) the timeframe for providing requested information to the department or a managed care organization shall be reasonable given the nature of the request and the circumstances surrounding the request and shall be a minimum of one (1) business day; and (b) a targeted case management services provider may request a longer timeframe if necessary; and (6) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 4, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:055 & E. Reimbursement provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues.

A motion was made and seconded to approve the following amendments: to amend the TITLE and NECESSITY, FUNCTION, AND CONFORMITY paragraph to use terminology that is similar to the provisions of the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:060 & E. Coverage provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to expand the types of Medicaid providers authorized to provide targeted case management services to include Levels I and II psychiatric residential treatment facilities for recipients under age twenty-one (21), chemical dependency treatment centers for individuals with a substance use disorder, outpatient hospitals, and psychiatric hospitals; (2) to amend Section 4 to create an exemption to the targeted case manager educational requirements by waiting requirements for anyone who has provided or supervised targeted case management services any time from April 1, 2014 until the effective date of the administrative regulation; (3) to amend Section 8 to: (a) remove the restriction that an individuals who provides targeted case management services cannot provide any other services but establishes that the individual cannot provide any other services to the recipient to whom the individual is providing targeted case management services; and (b) establish an overall caseload cap for targeted case managers of twenty-five recipients at one time beginning October 1, 2015; (4) to amend Section 9 to correct citations to federal law; (5) to amend Section 10 to clarify that: (a) the timeframe for providing requested information to the department or a managed care organization shall be reasonable given the nature of the request and the circumstances surrounding the request and shall be a minimum of one (1) business day; and (b) a targeted case management services provider may request a longer timeframe if necessary; and (6) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4, 6, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:065 & E. Reimbursement provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability.

Department for Aging and Independent Living: Division of Quality Living: Brain Injury

910 KAR 3:030. Traumatic brain injury trust fund operations program. Phyllis Sosa, staff assistant, and Tonia Wells, fund director, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to specify a definition; (2) to amend Section 10 to correct an inadvertent error and for consistency; (3) to amend Section 14 to clarify that a recipient discharge from the fund program shall be required if both the recipient and the provider have had a substantiation of fraud related to the program, rather than a recipient discharge if only the provider has had a substantiation of fraud; and (4) to amend the RELATES TO paragraph and Sections 4, 7, 13, and 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Income Support: Child Support Enforcement: Family Support

921 KAR 1:410. Child support collection and distribution. Mary Sparrow, policy analyst, and Steve Veno, commissioner, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to update citations; (2) to amend Sections 4 and 5 to correct form names and edition dates; and (3) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:030. Application process. Elizabeth Caywood, policy analyst, and Jason Dunn, director, represented the cabinet.

In response to a question by Co-Chair Harris, Mr. Dunn stated that this administrative regulation included voter provisions as part of the federal Motor Voter Act.

Division of Child Care: Day Care

922 KAR 2:160 & E. Child Care Assistance Program. Elizabeth Caywood, policy analyst; Mary Beth Jackson, division director; and Beth Jurek, executive director, represented the cabinet.

In response to questions by Co-Chair Harris, Ms. Jurek stated that there were 2,000 licensed childcare centers. One (1) or two (2) percent of those centers experienced a change of ownership transfer each year. A new owner had six (6) months before a STAR rating was given; however, it was necessary to provide some exceptions. A parent may request an exemption of the six (6) month waiting period so that the center may retain funding until the new STAR rating is established. The cabinet may reconsider the exemption if there were problems with the center after the transfer. Funding was provided to the center, not the recipient. Funding was based on 2011 federal poverty guidelines. Revising to the 2014 federal poverty guidelines would not result in helping more families because the funding itself was finite and was based on the 2011 federal poverty guidelines. Revising to the 2014 federal poverty guidelines would result in the need to reduce funding, which would mean the same number of families would receive assistance. The cabinet was considering changing the economic standards to a fixed amount that was not based directly on federal poverty guidelines in order to alleviate misunderstandings pertaining to the year of the federal poverty guideline standard.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct a citation; (2) to amend Sections 1 and 13 to make technical corrections; and (3) to amend Sections 3, 12, and 20 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Co-Chairs Harris and Marzian stated that the date of the March 2015 meeting would be set for either Monday, March 9, or Tuesday, March 10. The date and time would depend on the General Assembly's schedule for the Regular Session. The co-chairs' preference was to meet on Monday, March 9, at a time convenient for all members given that day's session schedule and other committee meetings. Subcommittee staff will discuss the meeting time with Senate and House leadership and Subcommittee members and will announce the scheduled date as soon as it is known.

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

GENERAL GOVERNMENT CABINET: Board of Licensure for Occupational Therapy: Board

201 KAR 28:010. Definitions and abbreviations.

201 KAR 28:020. General provisions.

201 KAR 28:030. Short-term practice of occupational therapy for persons practicing under KRS 319A.090(1)(e).

201 KAR 28:060. Requirements for licensure.

201 KAR 28:070. Examination.

201 KAR 28:090. Renewals.

201 KAR 28:110. Fees.

201 KAR 28:130. Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders.

201 KAR 28:140. Code of ethics and unprofessional conduct.

201 KAR 28:170. Deep physical agent modalities.

201 KAR 28:180. Temporary permits.

201 KAR 28:200. Continuing competence.

201 KAR 28:220. Per diem of board members.

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

601 KAR 14:020. Bicycle safety standards.

Department of Highways: Division of Maintenance: Billboards

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Instructional Programs

705 KAR 4:250. Energy technology engineering career pathway.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

The Subcommittee adjourned at 3:10 p.m. until March 2015.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the March Meeting

March 10, 2015

Call to Order and Roll Call

The meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, March 10, 2015, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Andy Crocker, Personnel Board; Ryan Barron, Doug Hendrix, Sandy Williams, Finance Cabinet; Nathan Goldman, Board of Nursing; Rhonda Tapp Edwards, Ryan Halloran, Camille Skubik-Peplaski, Board of Licensing for Occupational Therapy; Tom Veit, Real Estate Appraisers Board; Charles Bush, Mark Cramer, Chris Garland, Fish and Wildlife; Jason Glass, Clint Quarles, Department of Agriculture; and Amy Barker, Corrections.

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

Call to Order and Roll Call

The March 2015 meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, March 10, 2015, at 10:00 a.m., in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the February 2015 meeting were approved.

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL BOARD: Board

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

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

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Kentucky Private Activity Bond Allocation Committee

200 KAR 15:010 & E. Formula for allocation of private activity bonds. Doug Hendrix, deputy general counsel; Ryan Barrow, executive director, Office of Financial Management; and Sandy Williams, deputy executive director, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 6, 7, 9, 10, and 12 to clarify provisions; and (3) to amend Sections 1, 6, 7, 8, 10, 14, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Nursing: Board

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

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 5 and 6 to correct citations; and (2) to amend Sections 2 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Occupational Therapy: Board

201 KAR 28:010. Definitions and abbreviations. Rhonda Tapp Edwards, board member; Ryan Halloran, assistant attorney general; and Camille Skubik-Peplaski, chair, represented the board.

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

201 KAR 28:020. General provisions.

In response to questions by Co-Chair Harris, Ms. Skubik-Peplaski stated that this administrative regulation deleted the five (5) year limitation for reviewing the criminal history of a proposed licensee because the board believed it was in the public's best interest to review the entire criminal history. A conviction or civil violation did not automatically result in licensure denial. The board considered each conviction and civil violation prior to determining licensure.

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

201 KAR 28:030. Short-term practice of

occupational therapy for persons practicing under KRS 319A.090(1)(e).

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

201 KAR 28:060. Requirements for licensure.

In response to a question by Co-Chair Harris, Ms. Edwards stated that the board could absorb expenses related to the examinations from carryover funds.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; (4) to amend Section 5 to update edition dates of the material incorporated by reference; and (5) to update material incorporated by reference to be consistent with the regulatory changes and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:070. Examination.

In response to a question by Co-Chair Harris, Ms. Skubik-Peplaski stated that the thirty-five (35) dollar exam fee was borne by the licensee.

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

201 KAR 28:090. Renewals.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 4 to comply with the drafting requirements of KRS Chapter 13A; (3) to amend Section 3 to clarify there are two (2) reinstatement applications, one (1) for an occupational therapist and one (1) for the occupational therapy assistant; (4) to amend Section 4 to delete the requirement to complete a jurisprudence exam to renew a license; (5) to amend Section 5 to update the edition date of the renewal application and to incorporate by reference both applications for reinstatement; and (6) to update the material incorporated by reference to conform with regulatory changes and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:110. Fees.

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

201 KAR 28:130. Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders.

201 KAR 28:140. Code of ethics and unprofessional conduct.

In response to a question by Co-Chair Harris, Ms. Edwards stated that this administrative regulation was being amended to reorganize requirements for ease of use.

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

201 KAR 28:170. Deep physical agent modalities.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 2, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A; (4) to amend Section 2 to establish the certification fee of twenty-five (25) dollars; (5) to amend Section 4 to allow a previously approved DPAM supervisor to maintain supervisor status until June 1, 2015 after which only a licensed occupational therapist who meets the requirements of this administrative regulation will remain an active supervisor; (6) to amend Section 6 to incorporate by reference the DPAM Specialty Certification Application and DPAM Specialty Certification Supervisor Application; and (7) to update the material incorporated by reference to correct citations and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:180. Temporary permits.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 and 4 to comply with the drafting requirements of KRS Chapter 13A; and (4) to include the updated edition of the Supervision Temporary Permit Form. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:200. Continuing competence.

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

201 KAR 28:220. Per diem of board members.

In response to a question by Co-Chair Harris, Ms. Skubik-Peplaski stated that the board met monthly and that there were usually at least four (4) board members present for each meeting. Because the board was experiencing an increasing workload greater than many similar boards, it was necessary to raise the board members' per diem. For example, there were approximately 600 new licensees last year. The increased per diem would be reimbursed by carryover funds.

Real Estate Appraisers Board: Board

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure. Ryan Halloran, assistant attorney general, and Tom Veit, executive assistant, represented the board.

In response to a question by Co-Chair Harris, Mr. Veit stated that this administrative regulation provided an exemption for armed forces members.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 4 to clarify that the armed forces exemption allows a member of the armed forces called to active duty during the specified time period additional time to complete the examination, education, and experience requirements pursuant to the 2008 Real Property Appraiser Qualification Criteria and those members are not required to complete the requirements in 201 KAR 30:050, 30:060, and 30:190 consistent with the new 2015 Real Property Appraiser Qualification Criteria required for all new applicants; and (2) to amend Section 5 to incorporate by reference the Real Property Appraiser Qualification Criteria. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:040. Standards of practice.

201 KAR 30:190. Educational requirements for certification.

In response to questions by Senator Clark, Mr. Veit stated that a licensure applicant shall have at least a four (4) year college degree, which is not required to be field specific. This requirement was the result of problems the board has recently had with insufficiently trained real estate appraisers. This would reduce the number of eligible applicants.

In response to questions by Co-Chair Harris, Mr. Veit stated that current licensees who did not meet the education requirements would be grandfathered in and able to maintain licensure unless the licensee failed to maintain licensure for some reason. The four (4) year college degree requirement was established in the authorizing statute.

201 KAR 30:200. Reciprocity requirements for applicants licensed or certified in another state.

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

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

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees. Charles Bush, deputy commissioner; Mark Cramer, program coordinator; and Chris Garland, acting wildlife division director, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 7, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Hunting and Fishing

301 KAR 3:100. Special commission permits.

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

DEPARTMENT OF AGRICULTURE: Office of Consumer Protection: Egg Marketing

302 KAR 10:110. Egg lot consolidation. Jason Glass, assistant director, and Clint Quarles, staff attorney, represented the department.

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

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

501 KAR 6:070. Kentucky Correctional Institution for Women. Amy Barker, assistant general counsel, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that this administrative regulation was part of the annual review of the policies and procedures for each correctional facility.

A motion was made and seconded to approve the following amendments: (1) to amend KCIW 10-01-01, 12-01-01, 13-04-02, 16-03-01, 18-05-03, and 21-01-01 to clarify procedures and make minor technical corrections; and (2) to amend Section 1 to update the edition dates of the revised policies. Without objection, and with agreement of the agency, the amendments were approved.

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

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Office of Income Taxation: Forms

103 KAR 3:040 & E. Income Tax Forms Manual.

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

601 KAR 14:020. Bicycle safety standards.

Department of Highways: Division of Maintenance: Billboards

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Administration and Finance

702 KAR 3:320. Finance officer certification requirements.

Instructional Programs

705 KAR 4:250. Energy technology engineering career pathway.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Data Reporting and Public Use Data Sets

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

Department for Medicaid Services: Division of Provider Operations: Payment and Services

907 KAR 3:017 & E. Enhanced reimbursement for preventive and wellness services.

Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability.

The Subcommittee adjourned at 10:25 a.m. until April 14, 2015, at 1 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

April 14, 2015

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, April 14, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: David Gormley, Charlie Harman, Cindy Parker, Stephanie Craycraft, Kathy Burke and Michele Blevins.

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

ELECTION OF HOUSE MEMBER CO-CHAIRMAN AND SENATE MEMBER CO-CHAIRMAN:

Kim Eisner, Committee Staff Administrator, stated that in accordance with KRS 45A.705, the election of co-chairs from each chamber to serve for terms of two years was required. The floor was opened for the nomination of a Co-Chair from the House of Representatives.

Representative Yonts nominated Representative Dennis Horlander as Co-Chair from the House of Representatives, Representative Montell seconded the nomination. Representative Montell moved that the nominations cease, Representative Yonts seconded the motion. Representative Dennis Horlander was elected by acclamation as the House Co-Chair of the Government Contract Review Committee.

The floor was opened for the nomination of a Co-Chair from the Senate.

Senator Hornback nominated Senator Max Wise as Co-Chair from the Senate, Senator Carroll seconded the nomination. Senator Hornback moved that the nominations cease, Senator Carroll seconded the motion. Senator Max Wise was elected by acclamation as the Senate Co-Chair of the Government Contract Review Committee.

A motion was made by Representative Yonts to approve Minutes of the July 2014, meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

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

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

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

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

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

THE FOLLOWING PERSONAL SERVICE

CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt, Tarrant and Combs, LLP, 1500001793.

BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:

Natalie Lile Law, PLLC, 1500001447.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Jennifer True Reed, 1500001397; Brett Scott, 1500001629; Lee Ann Morrison, 1500001630; Michael E. Blanton, 1500001631.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Crown Services, Inc., 1500001261; Guardian Healthcare Providers, 1500001262; SHC Services, Inc., 1500001263; Reach of Louisville, Inc., 1500001368.

EASTERN KENTUCKY UNIVERSITY:

PWM Insurance, A Division of J. Smith Lanier & Co., 16-077.

EDUCATIONAL TELEVISION, KENTUCKY:

Benjamin L. Mise, 1500001451.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Sherman Carter Barnhart, 1500001342; Patrick D. Murphy Company, Inc., 1500001440; Bender Associates Architects, 1500001577.

JUVENILE JUSTICE, DEPARTMENT OF:

Quality Mobile X-ray Services, Inc., 1500001602; Jenny V. Jones, 1500001616.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Purdue University, 633; AHIMA Foundation, 636.

MILITARY AFFAIRS, DEPARTMENT OF:

Mark Allen Slaughter, 1500001433.

MOREHEAD STATE UNIVERSITY:

Performance Resource Partners, LLC, 15-066.

NORTHERN KENTUCKY UNIVERSITY:

Paragon Media Strategies, 2015-684; Parker Executive Search, 2015-686.

STATE POLICE, DEPARTMENT OF:

Terry Alexander, 1500001420; Norman Winchester, 1500001422; Christopher Ison, 1500001609; Ronald Long, 1500001747.

TRANSPORTATION CABINET:

Strand Associates, Inc., 1500001578; Municipal Engineering County, 1500001580; Palmer Engineering County, 1500001636; Strand Associates, Inc., 1500001637; Palmer Engineering County, 1500001696.

UNIVERSITY OF KENTUCKY:

JRA Architects, A151190; Staggs & Fischer Engineers, A151200; The Pulse Group, K15-236.

UNIVERSITY OF LOUISVILLE:

Crowe Horwath, LLP, 15-126.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

AMS Temporaries, Inc., 1400001623; Crown Services, Inc., 1400001625; Guardian Angel Staffing Agency, 1400001626; Guardian Healthcare Providers, 1400001627; Nursestaffing Group Kentucky, LLC, 1400001628; SHC Services, Inc., 1400001629.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Stantec Consulting Services, Inc., 1000001351; URS Corporation, 1000001352.

DEPARTMENT FOR INCOME SUPPORT:

Ed Stodola, 1400000903.

FINANCE AND ADMINISTRATION CABINET:

The Baller Herbst Stokes & Lide, PC, 1500001040.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Michael Baker Jr., Incorporated, 0800007669; Myers Jolly Architects, 1000000840; URS Corporation, 1100000073; Brandstetter Carroll Incorporated, 1200000309; L'Acquis Consulting Enterprises, LLC, 1200000394; Architectural Investments, 1200001704; Senler Campbell & Associates, Inc., 1300001179; Amec Foster Wheeler Environment & Infrastructure, Inc., 1300002184; Architectural Investment, 1400000003; Omni Architects, C-05256615.

JUVENILE JUSTICE, DEPARTMENT OF:

Brenda Wilburn, 1400003077; Brenda Wilburn, 1400003082.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Ivy Tech - Bloomington, 603; Jackson State Community College, 604.

KY RACING COMMISSION:

LGC Science, Inc., 1400001245.

MEDICAL LICENSURE, BOARD OF:

Multi, 1400002582.

MOREHEAD STATE UNIVERSITY:

Provations Group, 15-002; Sign Language Network of KY, LLC, 15-026; Wes Peters, 15-041.

MURRAY STATE UNIVERSITY:

Wyatt Tarrant & Combs, LLP, 109-15.

PERSONNEL BOARD:

Roland P. Merkel, PSC, 1400003480; Darren L. Embry, 1400003560.

TRANSPORTATION CABINET:

Palmer Engineering Company, 1000001521; Stantec Consulting Services Incorporated, 1200002239; Lochner H. W., Inc. Consulting, 1300001688; HMB Professional Engineers, Inc., 1300002496; Summit Engineering Incorporated, 1300003118; Strand Associates, Inc., 1400000046; Palmer Engineering County, 1400000073; J M Crawford and Associates, Inc., 1400000195; CDP Engineers, Inc., 1400000350; CDM Smith, Inc., 1400000571; Vaughn & Melton Consulting Engineers Kentucky, Inc., 1400000764; URS Corporation, 1500000282; American Engineers, Inc., C-01345595-1; Presnell Associates, Inc., C-02300472-3; GRW Engineers, Inc., C-99004860-4; HMB Professional Engineers, Inc., C-99005065-6.

UNIVERSITY OF KENTUCKY:

JRA Architects, A131210; Moody Nolan, A141080; GBBN, A151070; Brandsetter Carroll, Inc., A151090; Luckett & Farley, A151130; Lord, Aeck & Sargent, Inc., A151160; Deloitte Consulting, K15-174; NTT Data Enterprise Services, Inc., K15-187.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001614.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Bluegrass Regional Mental Health Mental Retardation, 1500001392.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Oldham County Fiscal Court, 1500001111.

EDUCATION, DEPARTMENT OF:

Fayette County Treasurer, 1500001386; Pulaski County Board of Education, 1500001391; Kentucky Partnership for Families and Children, Inc., 1500001459.

INFRASTRUCTURE AUTHORITY:

Perry County Fiscal Court, 1500001633.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Casey County Public Library District Construction Corporation, 1500001406; Hart County Public Library, 1500001408; Louisville Free Public Library, 1500001409; Lee County Public Library, 1500001410; Nicholas County Public Library, 1500001412; Spencer County Public Library, 1500001413; Washington County Public Library, 1500001414; Wayne County Public Library, 1500001415.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Leslie County Fiscal Court, 1500001455; Leslie County Fiscal Court, 1500001456; Leslie County Fiscal Court, 1500001457; Leslie County Fiscal Court, 1500001458; Knott County Fiscal Court, 1500001575; Hopkins County Fiscal Court, 1500001579; Harlan County Fiscal Court, 1500001586; Hopkins County Fiscal Court, 1500001598; Webster County Fiscal Court, 1500001606; City of Providence, 1500001621; Letcher County Fiscal Court, 1500001622; Cumberland County Fiscal Court, 1500001635; Floyd County Fiscal Court, 1500001673.

POST SECONDARY EDUCATION, COUNCIL ON:

Council for Opportunity in Education, 1500000947.

WORKFORCE INVESTMENT, OFFICE OF:

Disability Resource Initiative, Inc., 1500000354.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1200001315.

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001216; Multi, 1500001218.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND

INTELLECTUAL DISABILITIES:

Pennyroyal Mental Health, 1400000852; Pennyroyal Mental Health, 1400000852; Green River Regional Mental Health Mental Retardation Board, 1400000853; Green River Regional Mental Health Mental Retardation Board, 1400000853; Lifeskills, Inc., 1400000854; Communicare, Inc., 1400000855; Communicare, Inc., 1400000855; Northern Kentucky Regional Mental Health Mental Retardation Board, 1400000857; Comprehend, Inc., 1400000858; Comprehend, Inc., 1400000858; Mountain Comp Care Center, 1400000860; Mountain Comp Care Center, 1400000860; Kentucky River Community Care, 1400000861; Cumberland River Behavioral Health, Inc., 1400000862; Cumberland River Behavioral Health, Inc., 1400000862; Lake Cumberland Mental Health Mental Retardation Board, 1400000863; Kentucky Housing Corporation, 1400000882; Kentucky Self-Advocates for Freedom, Inc., 1400001034.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Northeast Kentucky Community Action Agency, 1400001462; Kentucky Housing Corporation, 1400001494.

DEPARTMENT FOR MEDICAID SERVICES:

University of Kentucky Research Foundation, 1400001179.

DEPARTMENT FOR PUBLIC HEALTH:

Cancer Suvivors Against Radon, Inc., 1400001643.

EDUCATION, DEPARTMENT OF:

Knott County Board of Education, 1400002484; Bell County Board of Education, 1400002610; Trigg County Board of Education, 1400002681; Newport Independent Board of Education, 1400002696; Bowling Green Independent Board of Education, 1500000018; Fayette County Board of Education, 1500000025; Lewis County Board of Education, 1500000027; Grayson County Board of Education, 1500000031; Henderson County Board of Education, 1500000032; Johnson County Board of Education, 1500000036; Lawrence County Board of Education, 1500000039; McCreary County Board of Education, 1500000043; Powell County Board of Education, 1500000047; Franklin County Board of Education, 1500000599; Estill County Board of Education, 1500001126.

JUSTICE CABINET:

U of L Pediatric Forensic Medicine, 1500000431.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Todd County Fiscal Court, 1400000749; Floyd County Fiscal Court, 1400002363; Knott County Fiscal Court, 1500000046; Rockcastle County Fiscal Court, 1500001024.

TRANSPORTATION CABINET:

Kentucky Transportation Center, 1400001566.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

TRANSPORTATION CABINET:

ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1500001705; Michael Baker Jr., Inc., 1500001738; Lochner H. W., Inc. Consulting, 1500001741; Vaughn & Melton Consulting Engineers, Inc., 1500001742. David Gormley discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

UNIVERSITY OF KENTUCKY:

DevObal Technologies, Inc., K15-237. A motion was made by Representative Yonts to defer the contract to the May meeting of the committee. Representative Horlander seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR $10,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

STATE POLICE, DEPARTMENT OF:

Diamondback Specialized CMV Training, LLC., 1500001594. A motion was made by Representative Yonts to defer the contract to the May meeting of the committee. Representative Horlander seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF:

National Staff Development Council, 1500001266. Charlie Harman and Cindy Parker discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

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

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Four Rivers Behavioral Health, 1400000851; Four Rivers Behavioral Health, 1400000851; Pathways, Inc., 1400000859. Stephanie Craycraft, Kathy Burke and Michele Blevins discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Seven Counties Services, 1400000856. Stephanie Craycraft, Kathy Burke and Michele Blevins discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed.

With no further business before the committee, the meeting was adjourned at 10:40 a.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

February 23, 2015

Call to Order and Roll Call

A meeting of the Public Pension Oversight Board was held on Monday, February 23, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order. The roll was not called, but the secretary noted those in attendance.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Tom Bennett, Jane Driskell, James M. "Mac" Jefferson, and Alison Stemler.

Guests: Mike Robinson, Council of State Governments, among others.

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

Approval of Minutes

Co-Chair Yonts moved that the minutes of the January 26, 2015 meeting be approved. Mr. Jefferson seconded the motion, and the minutes were approved without objection.

Kentucky Retirement Systems Investment

David Peden, Chief Investment Officer of the Kentucky Retirement Systems, summarized the January performance and stated that he would do so each month. The total portfolio performance was a negative 0.04 percent versus the benchmark return of 0.19 percent. U.S. equity had a difficult month, which was reflected in the S & P 500 being down three percent in January. Non-U.S. equity was nearly flat, or down thirteen basis points, and the Kentucky Retirement Systems' non-U.S. equity portfolio was down twenty eight basis points. Mr. Peden said the Barclay's fixed income benchmark was up 1.9 percent, and the KRS fixed income portfolio was up 1.35 percent and trailed the benchmark due to credit exposure, rather than interest rate exposure, when compared to the benchmark. He said the ten year treasury yield on January 2, 2015, was 2.12 percent and ended January at 1.68 percent, an incredible move in the ten year treasury rate. He reminded the board that when rates go down the price of bonds go up, which is a good situation from a fixed income perspective. The real return in January was up 1.72 percent, led by Treasury Inflation Protected Securities (TIPS), which were up 2.47 percent, and was largely moved by swings in the oil markets and gains in the PIMCO All Asset Fund, a major holding for KRS in the real return portfolio, which was up 3.48 percent. The portfolio is down about one percent fiscal year to date versus the benchmark. Mr. Peden indicated it has been a challenge for the start of the fiscal year on an absolute basis and relative to the benchmarks. However, he noted that February performance has been tremendous thus far, and he is hoping he will be able to report good news next month both on an absolute basis as well as versus the benchmarks.

Responding to a question by Co-Chair Bowen, Mr. Peden said that the portfolio was up two percent month to date and more encouraging is that some of the asset classes that have been struggling either on a relative basis or an absolute basis are performing very well.

In response to a question to Mr. Thielen from Mr. Jefferson concerning the asset/liability study and actuarial audit and the timeframes for the completion and costs of those studies, Mr. Thielen said that the asset/liability study is being conducted on an on-going basis currently and will be reported to the KRS Board in its final draft at the May meeting. The cost of the last study was approximately $250,000 or about $50,000 per fund and he expected it to again be somewhere between $250,000 and $300,000. The RFP for the actuarial audit will be approved by the KRS Board at its next meeting on February 24 and will be issued the following day. That process will also be completed around May and hopefully KRS will be able to report to the PPOB the results of that audit at its May meeting. KRS is still in the process of evaluating other studies that would compare KRS to other public pension plans, including the complexities of the KRS program versus other programs for investment, fees, commissions, and costs in investment structure as well as for the KRS administrative costs and fees and administrative structure. The review process is taking some time because there is a lot of information and really only one firm with an international database that is capable of performing what KRS is requiring, and that if an RFP is required it has not yet been prepared. Costs of those studies could range from about $40,000 to $60,000 for the investment portion and approximately $60,000 to $100,000 for the administrative study. The actuarial audit budget has not been set and that it was his understanding that those audits are not normally expensive; however, in talking with the actuaries, it could cost as much as $80,000 to $100,000 given the complexity of the KRS system.

Mr. Thielen also recognized Vince Lange, a member of the KRS Board of Trustees.

2015 Legislative Proposals – LRC Staff

Brad Gross with the Legislative Research Commission discussed the 2015 legislative proposals related to public pensions, dividing them into separate categories of funding, "spiking," housekeeping legislation, transparency and reporting, KRS agency participation, PPOB duties, and other KRS related measures.

Most of the legislation relating to the retirement systems would contain an actuarial audit or "AA" in the *Legislative Record*. Any retirement bill that impacts plan liabilities is required to have an actuarial analysis under KRS 6.350 and some bills will also have a local mandate (LM), which identifies the impact on local governments, mainly in the CERS, and that sometimes a fiscal note (FN) is attached that identifies the impact on the state budget. As it relates to funding, the PPOB had recommended that the General Assembly secure additional funding for the KERS nonhazardous pension fund to avoid insolvency issues and that Senator Bowen had filed Senate Bill 94 to address this issue, which would limit the state debt ceiling to six percent in future years. The current debt level is higher than that amount and the bill would specify that as the debt level is reduced any additional savings would be re-directed as a supplemental employer rate to the KERS nonhazardous pension funds above and in addition to the actuarially required contribution (ARC). The impact would be $8.8 million in fiscal year 2017 and would trend up to $177.1 million in fiscal year 2022, for a total impact of about $500 million. There would be no impact on the plan liabilities, but the bill would provide additional funding to insure KRS is able to pay its liabilities and would help increase the funding levels over time.

Mr. Bowen stated that even though the unfunded mandate is in the billions of dollars and that "only" millions were being identified by the bill's savings, he noted that one of the current challenges is managing cash flow, which involves an ongoing deficit in the millions of dollars and therefore identifying any savings that can be redirected to the systems serves a good purpose.

Mr. Gross stated there has been a lot of discussion about the pension "spiking" issue. "Spiking" occurs when an employee receives significant increases in pay in the last couple of years of employment that results in higher lifetime benefit payments because pension payments are based on the high three or five years of salary. Senate Bill 2 enacted by the General Assembly in 2013 requires employers to pay for the additional actuarial costs of pension spiking for any increases in creditable compensation that exceed ten percent per year, with exemptions for bona fide salary increases from a promotion or salary advancement or due to lump sum payments for compensatory time, which is effective for employees retiring on or after January 1, 2014. During the 2014 session, Senate Bill 142 addressed this issue, and the bill would have removed the employer payment for spiking and in lieu thereof would have limited future annual creditable compensation growth to ten percent annually for employees participating in KRS. In other words, it would have limited future salary growth used for retirement purposes, but would not have limited the salary the employee could receive. The bill also retained the existing exemptions, but added additional exemptions relative to worker's compensation and unpaid leave. The PPOB recommended that this issue be addressed through measures similar to those contained in Senate Bill 142 or by increasing the threshold to which an employer surcharge would occur from ten to fifteen percent. Three measures have been introduced in the 2015 session relative to pension spiking, Senate Bill 157 and House Bill 444 are the same bill and essentially the same as Senate Bill 142 from the 2014 session, but they also include additional exemptions related to school boards where there is a payment of sick leave upon termination of employment and adjustments to the unpaid leave exemptions. There is no actuarial impact of those bills. Representative Yonts has also introduced House Bill 116, which retains the existing employer charge but exempts any costs to the employer less than $2,500.

The KRS housekeeping bill was supported by the PPOB. House Bill 108, sponsored by Representative Yonts, includes several measures requested by KRS, one of which requires all remaining KRS retirees who are receiving paper checks to receive those payments through EFT. This proposal was removed from the bill by a floor amendment, but it is a part of the cost savings that had been identified by KRS. Other measures include allowing KRS to conduct trustee elections electronically rather than by paper ballot; to impose interest charges on omitted contributions, which occurs when an employer fails to report an employee and contributions are later due; to synchronize the CERS trustee elections; and to make technical and clerical changes to conform to federal law. There is no actuarial impact and according to KRS the bill would result in a reduction in administrative expenses. Mr. Gross noted that the bill passed the House and is before the Senate State and Local Government Committee.

In response to a question from Co-Chair Bowen regarding an estimated cost savings, Mr. Gross said that synchronizing the CERS trustee election was estimated by KRS to save approximately $100,000 to $125,000. Co-Chair Yonts said that passage of all the cost saving bills would result in a savings to the system of approximately $350,000 to $400,000, but that the amount would be reduced about $65,000 because of the objections to converting paper checks to EFT and the bill being amended to remove that provision so that the bill would pass. Mr. Thielen also noted that if elections were being electronically conducted, and if the CERS elections were synchronized, that the cost savings could be between $400,000 and $500,000.

Mr. Gross stated that the PPOB had recommended that transparency or reporting requirements for the systems and legislation to require the systems to conduct an actuarial experience study should be enacted this year. The latest actuarial experience study was completed in May of 2014 and is required once every ten years, although it is typically completed once every five years. There was also a recommendation to incorporate sensitivity analysis into the evaluations on key assumptions to see how that might impact plan funding and the financial health of the systems. Senate Bill 22, sponsored by Senator McDaniel, would require state-administered systems to establish a placement agency disclosure policy and to disclose the information to the KRS board and the Government Contract Review Committee, which has passed the Senate. The PPOB also discussed at its May meeting concerning actuarial audits requiring KRS to engage a different actuary to perform an actuarial audit of KRS assumptions and funding methods and to report those findings to the PPOB, which was included in the PPOB's recommendations and is reflected in House Joint Resolution No. 7. This resolution has passed out of the House State Government Committee.

House Bill 306, sponsored by Representative Yonts, requires the retirement systems to perform an actuarial experience study once every five years and to perform a twenty-year projection of the impact of changes made by the systems that affect plan liabilities. The bill would require a similar analysis on any incremental assumption changes, such as retiree health benefit selection or any change that impacts plan liabilities, as with assumption changes resulting from an actuarial experience study. It would also require specific items to be included in the actuarial valuation, and require KRS to produce an estimate of employer rates on or before August 15 prior to the budget year and to report those values by December 31 and forwarded to the LRC and the chairs and committee staff with jurisdiction over those systems. The bill does not have an actuarial impact and has passed out of the House State Government Committee.

House Bill 49, another transparency reporting bill sponsored by Representative Wayne, includes provisions to place the state-administered retirement systems under the state procurement laws, bans the use of system assets to pay placement agents, requires KRS and KTRS to post additional information on their websites relative to the pension plans, restricts the requirements for KRS board members that are appointed by the Governor to individuals with investment experience, and requires the PPOB to study and make recommendations on whether the administration of the CERS and KERS systems should be separate and whether to transfer administration of the judicial and legislators' retirement plans to the KRS. The bill has no actuarial impact and has been assigned to the House State Government Committee.

Mr. Gross stated that the PPOB also recommended that legislation to address KRS agency participation should be enacted. House Bill 62, sponsored by Representative Yonts, would allow certain agencies to voluntarily discontinue participation in KERS or CERS provided they pay the actuarial costs for no longer participating. The agency would be required to pay for an actuarial study to determine the cost of the agency discontinuing participation and to pay the full actuarial costs of discontinuing participation. It would also require any discontinuing employer to establish another qualified plan for its displaced employees. There is no actuarial impact. The bill passed the House and has been assigned to the Senate State and Local Government Committee.

The PPOB also recommended that legislation include Kentucky Teachers Retirement System, the Judicial Retirement Plan, and the Legislative Retirement Plan in the oversight responsibilities of the PPOB. House Bill 47, sponsored by Representative Yonts, incorporates this recommendation, as well as changes the reporting deadline for the PPOB to December 31 and specifies the terms of appointed members and allows appointed members from the Speaker, President, and Governor to be a member of the retirement systems. There is no actuarial impact for the bill, and it has passed the House and has been assigned to the Senate State and Local Government Committee.

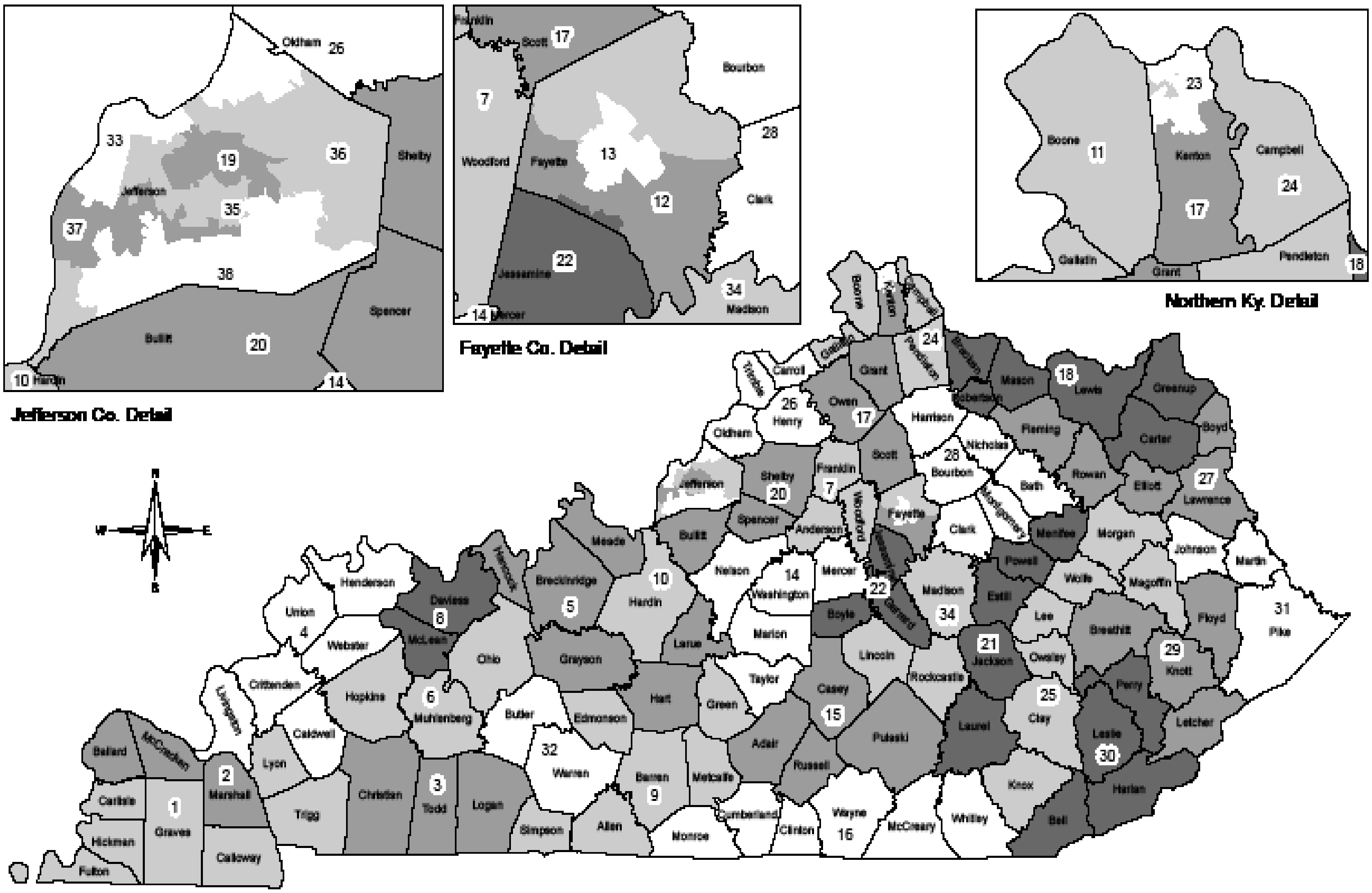
Among other retirement-related measures before the General Assembly is House Bill 287, sponsored by Representative Graham, which provides that vacancies in elected positions on the KRS board be filled by a majority vote of the remaining elected trustees rather than by a majority vote of all remaining trustees. The bill has passed out of the House State Government Committee. Senate Bill 62, sponsored by Senator Schickel, House Bill 163, sponsored by Representative Belcher, and House Bill 181, sponsored by Representative Butler, all deal with re-employment after retirement. Senate Bill 62 would void the retirement of any elected official that retires following re-election but prior to assuming the new term of office. House Bill 181 would add state police retirees to the House Bill 363 provisions passed in 2014 and would allows sheriff's offices to hire SPRS retirees as deputy sheriff's if they meet certain qualifications and would exempt the sheriff's office from paying employer contributions and health reimbursements on those individuals. Senate Bill 20 would require disclosure of retirement benefit information of current and former members of the General Assembly and has been assigned to the Senate State and Local Government Committee. Senate Bill 194 would provide that new members of any of the state-administered systems who commit certain felonies not related to their duties would forfeit their pension benefits, and the bill has been assigned to the Senate State and Local Government Committee.

In response to a question from Co-Chair Bowen, Bill Thielen said that the information and bills discussed today would be discussed with the KRS Board in the legislative update to the board of the bills that impact the KRS or its members.

Co-Chair Bowen reminded the PPOB members that the board will continue to meet on the fourth Monday of each month and that the next meeting would be March 23rd at 1:00 p.m.

There being no further business, the meeting adjourned at approximately 1:45 p.m.

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



2002 Kentucky Senate Districts

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

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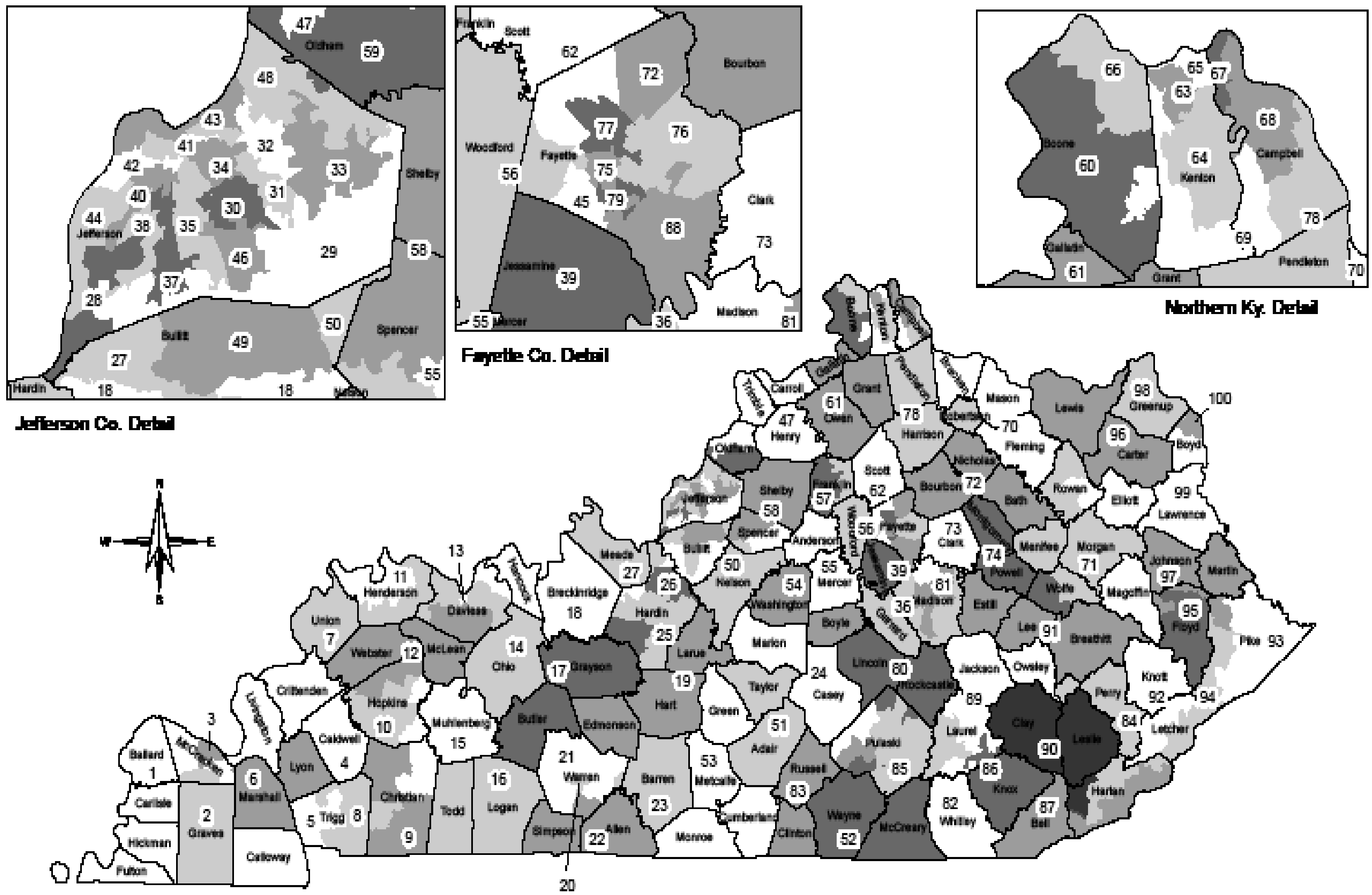

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9/05

2015 Interim

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