



# INTERIM RECORD

A SUMMARY OF INTERIM ACTIVITIES

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## Nearly 200 bills approved in General Assembly's 2019 session

by Jim Hannah  
*LRC Public Information*

FRANKFORT – The General Assembly's 2019 session came to a close shortly before midnight on March 28, capping off a session in which lawmakers gave bipartisan support to a school safety bill that is widely considered many lawmakers' highest-priority bill of the year.

The School Safety and Resiliency Act, or Senate Bill 1, was among nearly 200 bills that were approved by the time the 30-day session ended.

SB 1 was the product of a specially formed committee that traveled the state last year to discuss school safety and collect feedback. The measure will create a state security marshal to conduct onsite visits to ensure schools were compliant with all provisions of the omnibus bill. The goal of SB 1 is to improve student safety by boosting safety and prevention training, promoting the assignment of a school resource officer to every school, increasing awareness of suicide prevention efforts, encouraging collaboration with law enforcement and hiring more counselors in school districts. Legislative leaders said funding the provisions of the bill are expected to be a priority when lawmakers put together the state's two-year budget next year.

Legislation passed by the 2019 General Assembly, except for general appropriation measures and those containing emergency or



Rep. Kimberly Poore Moser, R-Taylor Mill, center, is recognized on the floor of the Senate for her work on House Bill 11. Sponsored by Moser, the bill — now law — will curb use of vaping devices, e-cigarettes and tobacco on public school property.

delayed effective date provisions, will go into effect on June 27.

A partial list of bills that the General Assembly approved this session includes measures on the following topics:

**Abortion.** House Bill 5 will make it a felony to perform an abortion due to a decision based on the unborn child's gender, race, color,

national origin or disability. Senate Bill 9, known as the fetal heartbeat bill, will prohibit abortion in Kentucky once a heartbeat is detected in an unborn child. (As of the time this publication was printed, a federal judge in Louisville had issued temporary restraining orders blocking enforcement of SB 9 and HB 5 after lawsuits were filed challenging the measures.) Senate Bill 50 will require health providers to report prescriptions written for RU-486 or any drug intended to end pregnancy. House Bill 148 will outlaw abortion in Kentucky in most cases should the landmark *Roe v. Wade* ruling be reversed.

**Budget.** House Bill 268 authorizes \$25 million in bonds for economic development and \$50 million in bonds for state parks to be spent on emergency repairs on everything from leaky roofs to backed-up sewers. It would also provide \$290,000 for Kentucky State University to match federal money available to land-grant universities.

**Concealed carry.** Senate Bill 150 will make Kentucky the 16th state to allow concealed firearms to be carried without a concealed carry permit. The measure will allow Kentuckians age 21 and older who are legally eligible to possess a firearm to carry a concealed weapon without a license in the same location as people with valid state-issued licenses. Permitless carry will not be allowed where prohibited by federal law or

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otherwise prohibited.

**Drunken driving.** Senate Bill 85 will expand the use of ignition interlock devices (IID), Breathalyzer-type devices connected to the ignition systems of vehicles of people convicted of driving under the influence (DUI). The measure will do this by allowing and incentivizing IIDs for all people charged with a DUI and shift administration of the program from the courts to the Transportation Cabinet. SB 85 will also move Kentucky toward a more compliance-based model, in which offenders would have to complete a 120-day period of sober driving before exiting the court-mandated program.

**Elections.** House Bill 114 will require candidates for state offices and most local offices to officially declare their candidacies via “statement-of-candidacy” forms no later than the last Tuesday in January preceding the general election. The current deadline is April 1. Amendments to the measure will also remove the Secretary of State as a voting member of the State Board of Elections and will make it a misdemeanor if an election official willfully misuses the state’s voter registration roster. Senate Bill 4 will require mandatory electronic filing of all candidates’ campaign finance reports by the May 2020 primaries.

**Felony expungement.** Senate Bill 57 will expand the number of Kentuckians eligible to have low-level felonies expunged from their criminal records. It will do this by expanding discretionary expungement to all Class D felonies with some exceptions for crimes such as stealing in office, abusing children and sex abuse. It includes a five-year waiting period to apply for expungement, a \$250 application fee and provisions for prosecutors to object and judges to reject the applications.

**Foster children.** House Bill 158, dubbed the “foster child bill of rights,” grants 16 rights for children in out-of-home placement in Kentucky, including rights to “adequate food, clothing and shelter,” “a safe, secure, and stable family,” and “freedom from physical, sexual, or emotional injury or exploitation.” The legislation will also reduce the time for a parent or guardian to consent to voluntarily placing a child for adoption from 20 days to 72 hours. Senate Bill 31 will ensure children in out-of-

home care have visitation rights with their siblings. The measure will do this by requiring the Cabinet for Health and Family Services, in the case of siblings removed from their home and not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings.

**Free speech.** House Bill 254, dubbed the campus free speech bill, will require the state’s public universities to affirm they favor a free marketplace of ideas where speech is not suppressed because it’s deemed “offensive, unwise, disagreeable, conservative, liberal, traditional or radical.” SB 254 will also expand areas commonly known as “free speech zones” on many campuses to any accessible, open, outdoor venue.

**Government contracts.** House Bill 135 will prohibit public agencies from requiring that their contractors on public works projects have agreements with labor organizations.

**Hemp.** House Bill 197 will expand the legal definition of hemp to include the seeds of industrial hemp, derivatives, extracts, cannabinoids and isomers, among other components. That is the same definition found in the new U.S. Farm Bill, signed into law late last year, which removed hemp from the federal Controlled Substances Act.

**Kinship care.** House Bill 2, dubbed the kinship care bill, will create a caregiver assistance program for relatives and “fictive kin” – usually close family friends – of abused, neglected or dependent children. The measure will do this by offering different options to the caregivers based on the level of care they provide. HB 2 is designed to address a growth in out-of-home placement of Kentucky children amid the state’s current opioid crisis.

**Lobbying.** Senate Bill 6 will require disclosure of executive agency lobbyist compensation. The measure will also prohibit compensation contingent on awarding of a government contract. It will provide oversight, in part, by requiring executive branch lobbyists to register and list their clients. That’s already required of legislative lobbyists.

**Midwives.** Senate Bill 84 will recognize, certify and regulate home-birth midwives in Kentucky. The measure would create a council to advise the state Board of Nursing on the creation of regulations regarding qualifications, standards for training, competency, any



Senate Bill 57 sponsor Sen. Jimmy Higdon, R-Lebanon, presents the measure on the Senate floor. Now law, SB 57 will expand the number of Kentuckians eligible for low-level felony expungement.



Rep. Chris Fugate, R-Chavies, presents House Bill 2 before a committee. Known as the kinship care bill, HB 2 will create a new caregiver assistance program for abused, neglected or dependent children. The bill was sponsored by Fugate and House Speaker Pro Tempore David Meade, R-Stanford.

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# Committee Meetings

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## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 561st Meeting

December 19, 2018

#### Call to Order and Roll Call

The 561st meeting of the Legislative Research Commission was held on Wednesday, December 19, 2018, at 1:30 PM, in Room 125 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Senators Julie Raque Adams, Jimmy Higdon, Dennis Parrett, Dorsey Ridley, Damon Thayer, and Mike Wilson; Representatives Rocky Adkins, Kevin D. Bratcher, Dennis Keene, David Meade, David Osborne, and Jonathon Shell.

Guests: Ethan Bingham.

LRC Staff: Christy Glass.

Senator Stivers asked for a moment of silence in memory of Senator Damon Thayer's father, who passed away this week.

Senator Stivers recognized and welcomed Senator Julie Raque Adams, who has taken the position of the Caucus Chair for the Senate Republicans.

Senator Stivers called for a motion to approve the minutes of the September 5, 2018 meeting; accept and refer as indicated items A. through L. under Staff and Committee Reports; refer prefiled bills as indicated and approve items A. through D. under New Business; and, accept and refer as indicated Items 1. through 50. under Communications.

A motion was made by Representative Osborne and seconded by Senator Raque Adams.

There being no further discussion, a motion having been made, a roll call vote was taken, and the motion approved unanimously. The following items were approved, accepted, or referred:

The minutes of the September 5, 2018, meeting were approved.

#### STAFF AND COMMITTEE REPORTS

Information requests since September 1, 2018.

Committee Activity Reports since September 1, 2018.

Report of the Administrative Regulation Review Subcommittee meetings on September 11, October 9, and November 13, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meetings on September 6, October 4, and November 1, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services during its

meetings on September 19, November 27, and December 12, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on State Government during its meetings on September 26 and October 24, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Agriculture during its meetings on September 28, October 10, and November 14, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on September 13, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Education during its meeting on November 19, 2018.

Committee review of Reorganization Order 2018-718 by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on October 11, 2018.

Committee review of Reorganization Order 2018-780 by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on November 27, 2018.

From Senator Ralph Alvarado and Representative Danny Bentley, Co-chairs of the Diabetes Medical Emergency Response Task Force: Findings and Recommendations.

#### NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 304** (An act relating to grain discounts) to **Agriculture**; **BR 24** (An act relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency), **BR 47** (An act relating to family resource and youth services center), **BR 71** (An act relating to resale certificates for sales and use tax and declaring an emergency), **BR 72** (An act relating to exempting admissions to events held by nonprofit organizations from sales and use taxation), **BR 94** (An act relating to the taxation of admissions for sales and use tax), **BR 147** (An act relating to the exemption of certain animal services from sales and use tax), **BR 155** (An act relating to drug treatment and prevention and making an appropriation therefor), **BR 207** (An act relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency), **BR 240** (An act relating to income tax checkoff programs and making an appropriation therefor) and **BR 276** (An act relating to an exemption of income taxation for military pensions) to **Appropriations and Revenue**; **BR 52** (An act relating to infertility treatment coverage) and **BR 453** (An act relating to deferred deposit transactions) to **Banking and**



**Insurance;** **BR 140** (An act relating to workers' compensation for first responders), **BR 141** (An act relating to employment schedules), **BR 142** (An act relating to leave from employment for crime victims), **BR 163** (An act relating to workers' compensation), **BR 165** (An act relating to earned paid sick leave), **BR 166** (An act relating to employment provisions for employees on maternity leave), **BR 168** (An act relating to prevailing wage), **BR 175** (An act relating to economic development incentives), **BR 177** (An act relating to the misclassification of employees in the construction industry), **BR 302** (An act relating to wages) and **BR 333** (An act relating to employment discrimination based on smoking) to **Economic Development and Workforce Investment;** **BR 55** (An act relating to local boards of education), **BR 156** (An act relating to the display of the national motto in public schools), **BR 238** (An act relating to Kentucky educational excellence scholarships and declaring an emergency), **BR 280** (An act relating to tuition benefits and making an appropriation therefor), **BR 324** (An act relating to healthy goals for the school children of the Commonwealth), **BR 429** (An act relating to corporal physical discipline), **BR 445** (An act relating to members of boards of education) and **BR 485** (An act relating to providing free feminine hygiene products for women public postsecondary students) to **Education;** **BR 69** (An act relating to mental illness), **BR 133** (An act relating to kinship and fictive kin care), **BR 180** (An concurrent resolution calling for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes), **BR 271** (An act relating to pharmacists), **BR 325** (an act relating to the eternal child fatality and near fatality review panel), **BR 329** (An act relating to kinship and fictive kin care and making an appropriation therefor), **BR 355** (an act relating to disclosure of Medicaid managed care organizations' payment schedules to the Medicaid Oversight and Advisory Committee), **BR 375** (An act relating to service improvements in the Medicaid program), **BR 386** (An act relating to ground ambulance service providers and making an appropriation therefor), **BR 440** (An act relating to physicians assistants) and **BR 465** (An acting relating to breast-feeding) to **Health and Welfare and Family Services;** **BR 66** (An act relating to domestic violence), **BR 172** (An act relating to gang violence), **BR 181** (An act relating to accountability of charitable organizations), **BR 208** (An act relating to road safety), **BR 272** (An act relating to special grand juries), **BR 285** (An act relating to firearms fabricated with additive manufacturing), **BR 299** (An act relating to firearms), **BR 335** (An act relating hate crimes), **BR 349** (An act relating to firearms and declaring an emergency), **BR 351** (An act relating to expungement), **BR 357** (An act relating to hate crimes), **BR 393** (An act relating to caller identification), **BR 476** (An act relating to the safety of canines and felines) and **BR 493** (An act relating to pretrial release) to **Judiciary;** **BR 15** (An act relating to sports wagering and making appropriation

therefor), **BR 144** (An act relating to charitable gaming), **BR 320** (An act relating to sports wagering and making an appropriation therefor), **BR 360** (An act relating to causes of actions for building code violations) and **BR 460** (An act relating to licensing fees for the sale of alcoholic beverages) to **Licensing, Occupations, and Administrative Regulations;** **BR 12** (An act relating to local investments), **BR 21** (An act relating to fire protection and making appropriation therefor), **BR 67** (An act relating to local procurement), **BR 205** (An act relating to county finance) and **BR 268** (An act relating to certified law enforcement telecommunicators and making an appropriation therefor) to **Local Government;** **BR 178** (An act relating to a youth crossbow deer hunting season) and **BR 382** (An act relating to water well drillers) to **Natural Resources and Energy;** **BR 11** (An act relating to Kentucky Retirement Systems), **BR 134** (An act relating to sanctuary cities and universities), **BR 174** (An act relating to public procurement), **BR 179** (An act relating to sexual harassment), **BR 202** (An relating to reemployment of elected officials), **BR 204** (An act relating to the reporting of retirement contributions), **BR 212** (An act relating to legislative ethics), **BR 264** (An act proposing an amendment to Sections 30, 31, and 32 of the Constitution of Kentucky relating to terms of members of the General Assembly), **BR 266** (An act relating to oaths), **BR 319** (An act relating to state parks), **BR 350** (An act proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote), **BR 420** (An act relating to executive branch ethics), **BR 352** (An act relating to contingency fee legal personal service contracts), **BR 353** (An act proposing to amend Sections 30 and 31 of the Constitution of Kentucky relating to elections of members of the General Assembly) and **BR 361** (An act proposing to amend Sections 70, 72, 73, 74, 84, 85, 86, 87, 90, 91, and 95 and repeal Section 82 of the Constitution of Kentucky relating to abolishing the Office of the Lieutenant Governor) to **State Government;** **BR 96** (A joint resolution designating the Laurel River bridge on Interstate 75 in Laurel County, Kentucky, in honor and memory of fallen soldier Sergeant First Class 3 Lance Scott Cornett), **BR 99** (An act relating to the renewal of identity documents), **BR 106** (An act relating to all-terrain vehicles and making an appropriation therefor), **BR 251** (An act relating to operator's license testing), **BR 253** (An act relating to motor vehicle insurance) and **BR 455** (A joint resolution designating the Irene Patrick Memorial Highway in Boone County) to **Transportation;** **BR 97** (An act relating to concealed deadly weapons) to **Veterans, Military Affairs, and Public Protection.**

From Senate President Robert Stivers and House Speaker Pro Tem David Osborne: Memorandum appointing Andy Smith as a member to the School Safety Working Group.

From Senate President Robert Stivers and House Speaker Pro Tem David Osborne: Memorandum

appointing Representative D.J. Johnson as Co-chair of the Interim Joint Committee on State Government.

From Greg Woosley, LRC General Counsel: Memorandum regarding the proposed settlement in *Dan Seum, Jr. v. David Osborne and David Byerman*.

#### COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Report for the months of July, August, and October 2018. Pursuant to KRS 418.075(3).

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of August, September, October, and November 2018. Pursuant to KRS 42.410.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 2, 3, and 4, and year-to-date activity for the period of July 1, 2018, through October 31, 2018. Pursuant to KRS 42.190.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of July, August, September, and October 2018. Pursuant to KRS 154.20-150.

From the Cabinet for Health and Family Services: 2018 Child Abuse and Neglect Annual Report of Child Fatalities and Near Fatalities. Pursuant to KRS 620.050(12).\

From the Kentucky Council on Postsecondary Education: FY 18 Kentucky Lung Cancer Annual Report. Pursuant to KRS 164.476(7).

From the Kentucky Council on Postsecondary Education: FY 18 Ovarian Cancer Screening Annual Report. Pursuant to KRS 164.476(1).

From the Kentucky Association of Food Banks: 2018 Advisory Committee Annual Report. Pursuant to KRS 247.984.

From the Kentucky Board of Medical Licensure: 2018 Annual Report.

From the Kentucky Department of Fish and Wildlife Resources: 2018 Status of Hunting Land Access in Kentucky. Pursuant to KRS 150.0241(6).

From the Kentucky Housing Corporation: FY 18 Report of the Kentucky Affordable Housing Trust Fund Awards.

From the Kentucky Housing Corporation: FY 18 Report of the Methamphetamine Housing Clean-up Assistance Program.

From the Cabinet for Health and Family Services: 2018 Kentucky Commission on Services and Supports for Individuals with Intellectual and Other Developmental Disabilities Annual Report. Pursuant to KRS 210.577(3).

From the Cabinet for Economic Development: FY 18 Linked Deposit Loan Investment Program Annual Report. Pursuant to KRS 41.606.

From the Finance and Administration Cabinet, Department of Revenue: FY 18 Disaster Relief Sales and Use Tax Refund Totals. Pursuant to KRS 139.519(7)(b).



From the Auditor of Public Accounts: FY 18 Report of the Audit of the Cabinet for Health and Family Services' Breast Cancer Research and Education Trust Fund.

From the Auditor of Public Accounts: Examination of Certain Contracts, Operations, and Activities of the Kentucky Communications Network Authority.

From the Cabinet for Health and Family Services: Response to the 2018 Citizen Review Panel Annual Report.

From the Office of the Governor, Department for Local Government: 2018 Special Purpose Governmental Entity Compliance Report. Pursuant to KRS 65A.

From the University of Kentucky, Kentucky Geological Survey: 2018 Kentucky Interagency Groundwater Monitoring Network Annual Report. Pursuant to KRS 151.625.

From the Finance and Administration Cabinet, Commonwealth Office of Technology: 2018 Personal Information Security and Breach Notification Annual Report. Pursuant to KRS 42.726(4).

From the Teachers' Retirement System: 2018 In-state Investments Report. Pursuant to KRS 161.430.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Department of Veterans' Affairs I Support Veterans License Plate.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Department of Veterans Affairs Veteran's Program Trust Fund.

From the Teachers' Retirement System: FY 18 Teachers' Retirement Annual Report. Pursuant to KRS 42.615.

From the Administrative Office of the Courts: 2018 Open Courts Pilot Project: Observations and Evaluation Report.

From the Kentucky Higher Education Assistance Authority: FY 18 Actuarial Valuation for Kentucky's Affordable Prepaid Tuition (KAPT Pursuant to KRS 164A.704(8)).

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period July through September 2018.

From the Kentucky Department of Education: 2018 Physical Activity and Nutrition Report.

From the Auditor of Public Accounts: 2018 Report of the Audit of the Kentucky Reclamation Guaranty Fund.

From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2018. Pursuant to KRS 342.813.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of September 30, 2018.

Pursuant to KRS 342.821.

From the Cabinet for Health and Family Services: 2018 Report of Child Victims of Human Trafficking. Pursuant to KRS 620.029(b).

From the Kentucky Employers' Mutual Insurance Authority: 2019 Administrative Budget. Pursuant to KRS 342.813(3)(b).

From the Kentucky Fire Commission: FY 18 (Year End) and FY 19 (Estimates) Financial Disclosures. Pursuant to KRS 95A.055.

From the Cabinet for Health and Family Services, Department for Community Based Services: 2018 Social Service Worker Caseload Averages. Pursuant to KRS 199.461(4).

From the Finance and Administration Cabinet, Department of Revenue: FY 18 Energy Efficiency Products Credits Annual Report. Pursuant to KRS 141.436.

From the Tourism, Arts and Heritage Cabinet, Kentucky Department of Fish and Wildlife Resources: 2018 Annual Professional Standards Update. Pursuant to KRS 235.312.

From the Legislative Ethics Commission: FY 18 Annual Report. Pursuant to KRS 6.666(16).

From Northern Kentucky University: FY 18 Annual Financial Report.

From the Cabinet for Health and Family Services: 2018 Annual Report on Committed Children. Pursuant to KRS 194A.365.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Artisan Center at Berea.

From the Auditor of Public Accounts: FYS 17-18 Report of the Audit of the Kentucky Public Employee Health Insurance Program.

From the Auditor of Public Accounts: 2018 Report of the Audit of the Kentucky Heritage Land Conservation Fund.

From the Auditor of Public Accounts: FYS 17-18 Report of the Audit of the Kentucky Lottery Corporation.

From the Kentucky Pollution Prevention Center: FY 18 Annual Energy Management Reporting Requirements for KRS 160.325.

From the Executive Branch Ethics Commission: FYS 2014-2015 Biennial Report. Pursuant to KRS 11A.110(13).

From the Auditor of Public Accounts: FYS 17-18 Report of the Audit of the Kentucky Public Transportation Infrastructure Authority.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky River Authority.

Representative Adkins said there had been questions from members of their Caucus regarding the LRC Director search for a non-partisan LRC Director and whether that search had been started or if there was a plan to start that in the near future. He said that he would like to give his Caucus an update.

Senator Stivers said that at this point in time, there had not been any discussion. He said they felt it was only fair to hold off on any search until after it

was established who would be here. Senator Stivers went on to say that as far as personnel matters, the Commission might want to have a time where there is a closed discussion since they can go in, under Open Records Law, into an Executive Session. However, at this point in time, as when Speaker Stumbo was the Speaker, the chiefs of staff have done a very good job at managing, and he thinks the Commission needs to have a private discussion about how to proceed and in what direction. Senator Stivers says that he has full confidence in Becky Harilson and Dave Floyd.

Representative Adkins said that he was not questioning that. He said that he read when this happened, that there would be a search, and that he wanted to put it on the table. Representative Adkins stated that he was not questioning either one of the people who is doing the job; that he knows them both very well, and he has full confidence. He said he just wanted a path forward of what may be getting ready to take place. He said that he agrees with Senator Stivers and that a discussion needs to happen regarding that, and he looks forward to that discussion.

Representative Adkins mentioned that they had lost two other special people over the past week. Marshall Long, a longtime friend, and a person that served in both the House and the Senate passed away. Representative said that today is the day of the funeral for Representative Adrian Arnold, as well. He said he wanted to make sure the members of LRC knew about those two events and that it would be appropriate to have a moment of silence for them and their families, for their outstanding service to the people of the Commonwealth of Kentucky.

Senator Stivers said that he served with both and he knows many of the members know both. Senator Stivers asked for a moment of silence.

Senator Stivers proposed that he, the Speaker of the House, Minority Leader of the House, and the Minority Leader of the Senate sign off on an Amicus Brief before the Supreme Court. He said that he believes them doing an Amicus Brief is the appropriate mechanism for them to speak within court to state their position as it relates to what is called a Certification of the Law, as requested by the 6<sup>th</sup> Circuit Court of Appeals sitting in Cincinnati on the question of the 7 Counties issue of whether or not the obligations to the pension system is that of contract or statute. Senator Stivers said that is something that will have far-reaching implications on the certification by the Supreme Court back to the 6<sup>th</sup> Circuit Court of Appeals. He stated that most of them are aware that 7 Counties filed bankruptcy and it has now been taken upon appeal. The issue is whether they can bankrupt out of that provision for making contributions to the pension system for their respective employees and former employees who are now retirees. Senator Stivers said that it is his position that this is statutory and not contractual. If it is defined as contractual, they can bankrupt out. If that is the precedent that is set, then it causes a greater potential for fiscal problems for the pension systems as they currently exist, which

are not in good positions as they sit there today.

Senator Stivers said with that explanation, he is not asking for a comment, but that he would hope to have a conversation with each of the respective leaders and they join him in signing off on an Amicus Brief establishing their position before the Kentucky Supreme Court. The Amicus Brief has to be filed by January 3, and Senator Stivers said he felt it was the appropriate position for them to take in something that could be of a bipartisan nature, and he thinks everyone understands what the fiscal impact could be, depending on the ruling of or the decision of the Kentucky Supreme Court and how it is dealt with at the 6<sup>th</sup> Circuit Court of Appeals in Cincinnati.

Senator Stivers asked for any questions or discussions.

Senator Stivers thanked Senator Ridley and Representative Shell for their service and wished them the best in their future endeavors. He said for those individuals who will continue to stay in the General Assembly but who will not be serving on the LRC, they look forward to continuing their working relationship with them. He said that they truly appreciate the public service that each of them has provided.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY**

### **Minutes of the 7th Meeting of the 2018 Interim**

December 14, 2018

#### **Call to Order and Roll Call**

The 7th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Friday, December 14, 2018, at 11:00 AM, in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Ernie Harris, John Schickel, Brandon Smith, and Johnny Ray Turner; Representatives Larry Brown, McKenzie Cantrell, Tim Couch, Jeffery Donohue, Myron Dossett, Chris Fugate, Angie Hatton, Dennis Keene, Reginald Meeks, Suzanne Miles, Robby Mills, Rick G. Nelson, Jim Stewart III, and Jill York.

Guests: Michael J. Nasi, Partner, Jackson Walker LLP and Daniel J. Elliott, President and Chief Executive Officer, EnerBlu.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, and Susan Spoonamore.

#### **Regulatory and Market Update**

Michael J. Nasi stated President Trump has rolled back several Obama-era regulatory policies. In 2017, President Trump signed the Congressional Review Act, which struck down the Stream Protection

Rule, and the Energy Independence Executive Order. In 2018, President Trump signed the Furthering carbon capture, Utilization, Technology, Underground storage, and Reduced Emissions (FUTURE) Act that will expand carbon capture, utilization, and storage credits. Also in 2018, the Environmental Protection Agency (EPA) proposed the Affordable Clean Energy (ACE) Rule which, will replace the Clean Power Plan (CPP).

The EPA projects a rollback of the Effluent Limit Guidelines by 2020, to avoid retirements. The Coal Combustion Residual Rule was struck down in 2018, and a replacement is needed to avoid the ban on the placement of residuals in clay impoundments. The National Ambient Air Quality Standard (NAAQS) for particulate matter is the most rigid particulate matter standard in the world currently at 12 parts per million, but there are some who want to lower the current standard even more.

Mr. Nasi believes there are several misunderstandings regarding ACE as compared to the CPP. The CPP reduced the carbon dioxide concentration by 0.4 percent, but the rule would have no impact on reversing climate change. By 2025, the total annual reductions in the United States will be offset by only 6 weeks of Chinese emissions. So worldwide, the United States cannot reduce carbon and outpace China. ACE restored cooperative federalism where states will have the primary role of implementing energy policy. The shift from the CPP to ACE will not adversely impact human health, since American air is already safe and in compliance with NAAQS.

The National Energy Technology Laboratory performed a comprehensive study on energy resilience using the bomb cyclone in 2018 as the study focus. Coal made up 73 percent of the total energy needed to keep the electric grid functioning during that weather event. Solar and wind electricity sources, according to the study, cannot be sustained through extreme weather events.

There are subsidies in the electricity markets that are hidden from consumers in their tax bills. The electricity markets should educate consumers of the true costs of the product they are buying. The electricity markets are more distorted by renewable subsidies than fossil fuel subsidies due to the price advantage that is created by renewable subsidies.

In response to a question from Senator Smith, Mr. Nasi stated there are markets available to purchase carbon dioxide. California is converting carbon dioxide to methanol.

Representative Donohue expressed objections to both the premise and conclusions of Mr. Nasi's presentation.

#### **Update on EnerBlu**

Daniel J. Elliott stated EnerBlu is committed to creating sustainable energy solutions such as its proprietary eLTO battery technology. The battery is the only wound prismatic power cell in the world. This technology makes the battery long lasting and

less expensive. Battery storage will be needed for the electric power grid in the United States, and EnerBlu batteries can last up to 30 years.

The battery uses cobalt and China controls 60 percent of the cobalt resources in the world. Africa controls the second largest supply. As energy sources move towards renewables, it is important to not rely on China for the production of batteries due to volatility in the region.

Two-thirds of the world's population lives where it is hot. India, Africa, and Central America are emerging economies. These countries are not able to build a centralized electric power grid the way the United States did in the early nineteenth century. EnerBlu optimized its battery storage to work in extremely hot climates. It is less expensive to install wind and solar in emerging economies.

Eastern Kentucky's regional economy has been based on the coal industry for generations. The decline in coal production will create opportunities to train a new workforce and develop a product to meet customer demand.

Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES**

### **Minutes of the Seventh Meeting of the 2018 Interim**

December 12, 2018

#### **Call to Order and Roll Call**

The seventh meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, December 12, 2018, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 10:08 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Tom Buford, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Daniel Elliott, Chad McCoy, Kimberly Poore Moser, Melinda Gibbons Prunty, and Russell Webber.

Guests: Sarah Moyer, MD, MPH, Public Health Director, Louisville Metro Public Health and Wellness; Allison Adams, MPA, RN, CLC, Public Health Director, Buffalo Trace District Health Department, and President of the Kentucky Health Department Association; Dianne McFarling, MA, CPS, ICPS, Director, RiverValley Regional Prevention Center; Jordan Hall, RiverValley Behavioral Health; Eddie Reynolds, Brain Injury Alliance of Kentucky; and Ben Carter, Kentucky Equal Justice Center.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris

Joffrion, Dana Simmons, and Gina Rigbsy.

#### **Approval of the Minutes**

A motion to approve the minutes of the November 27, 2018 meeting was made by Senator Alvarado, seconded by Representative McCoy, and approved by voice vote.

#### **Citations**

Citations were presented to Senator Raque Adams and Representative Wuchner for their service and dedication as co-chairs of the committee, Representatives Benvenuti, L. Brown, Owens, and Wuchner upon their departure from the General Assembly.

#### **Consideration of Referred Administrative Regulations**

**201 KAR 009:260** - Professional standards for prescribing and dispensing controlled substances; **900 KAR 005:020 & E** - State Health Plan for facilities and services; **900 KAR 006:020** - Certificate of need application fee schedule; **900 KAR 011:010 & E** - Medical review panels; **902 KAR 020:300** - Operation and services; nursing facilities; **902 KAR 100:018** - Repeal of 902 KAR 100:017, 902 KAR 100:060, 902 KAR 100:090; **902 KAR 100:022** - Licensing requirements for land disposal of radioactive waste; **902 KAR 100:052** - Specific domestic licenses of broad scope for byproduct material; **902 KAR 100:070** - Packaging and transportation of radioactive material; **902 KAR 100:072** - Medical use of byproduct material; **902 KAR 100:100** - Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations; **902 KAR 100:142** - Licenses and radiation safety requirements for well logging; **921 KAR 003:025** - Technical requirements; **921 KAR 003:035** - **Certification process**; **922 KAR 001:411** - Repeal of 922 KAR 1:410; and **922 KAR 001:560 & E** - Putative father registry and operating procedures.

A motion to approve the referred administrative regulations was made by Senator Buford and seconded by Representative Moser. Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services, stated that the Kentucky Supreme Court ruled on a 7 to 0 vote that the medical review panel legislation enacted during the 2018 Regular Session was unconstitutional. The cabinet has stopped taking cases and is in the process of wrapping up the entire program. The appellants in the case filed a petition for modification asking that the Supreme Court increase its opinion to clarify the issue regarding statute of limitations and the effect on the medical review panel cases that may be pending. There were 759 cases filed with the medical review panel for which the statute of limitations expired and clarification was needed. The emergency administrative regulation 900 KAR 011:010 & E was drafted before the Supreme Court decision, but it is still necessary to clarify the filing date and procedures for the MRP. The request before the Supreme Court is to extend the statute of limitations for any of the pending cases for 90 days after the Supreme Court decision is final as long as it

was properly filed with the MRP.

In response to questions by Senator Buford, Deputy Secretary Feeley stated that, the statute of limitation for these cases was on hold while the medical review panels were in place. The administrative regulation would clarify the date of filing for an objection to the statute of limitation for these cases in the future.

In response to a question by Representative McCoy, Deputy Secretary Feeley stated that the administrative regulation would clarify that the filing date would be the day it was mailed and postmarked. After discussion of 900 KAR 011:010 & E, the motion to approve the administrative regulations was approved.

#### **Public Health Modernization**

Sarah Moyer, MD, MPH, Public Health Director, Louisville Metro Public Health and Wellness, and Allison Adams, MPA, RN, CLC, Public Health Director, Buffalo Trace District Health Department, and President of the Kentucky Health Department Association, stated that a 1988 Institute of Medicine, Future of Public Health article defined public health as what we, as a society, do collectively through organized actions to assure the conditions in which all people can be healthy. Public health departments cannot do everything to improve public health. Public health extends individual wellness and longevity, protects the available workforce, reduces costs to government, business, and individuals, and improves society in general. Local health departments (LHDs) meet the challenges and needs of the population by providing leadership in the community. Three core values of LHDs are to prevent disease, to promote wellness, and to protect people's health and the county level.

Kentucky consistently ranks among the worst states for health, but it can do better. The changes made today will lead to positive outcomes seen in the future. Healthy behavior choices and social and environmental factors make up 70 percent of a person's health and clinical care and physical environment make up 30 percent. Louisville has neighborhoods where life expectancy is 12.6 years less than other neighborhoods. Cancer is the number 1 cause of death in Louisville Metro and heart disease in the rest of the country. People who are uninsured or underinsured are more likely to be diagnosed with cancer at its more advanced stages. Residents who live in communities with concentrated poverty are more likely to live near polluting industries and polluted land and water. The food we eat can affect our risk of cancer. However, it is incredibly difficult to have a healthy diet when a household is food insecure. Preventing cancer is much more cost-effective than treating it. However, many families cannot afford the preventative measures. Best practices are evidence-based. Health departments can be a tool in the solution to healthcare.

Key components of public health include leadership and workforce, essential infrastructure,

flexible and sustainable funding, strategic partnerships, and data, analysis, and metrics. Local health departments are required by statute to provide services such as chronic disease management, health policy, community health improvement plans, enforcement of administrative regulations, mass vaccination, disaster response, STD control, epidemiology, adult and child vaccinations, disease surveillance, performance management, and quality improvement. Approximately \$3,636,870 in annual fees is collected by LHDs for programs such as HANDS, Medicaid preventative services, and environmental services on behalf of the Department for Public Health. LHDs are vital to maintaining the statutorily responsibility of government.

Kentucky has 13 nationally accredited LHDs. In order to become accredited, a LHD has to complete a community health assessment and community health improvement plan. All LHDs participated in the comprehensive public health system survey conducted by the University of Kentucky as part of the 2018 NALSYS 20-year longitudinal study.

In response to questions by Senator Givens, Dr. Moyer stated that we need to find and develop ways to change communities so that healthy choices become the easiest choice. Ms. Adams stated that some neighborhoods are not conducive to making healthy choices because of insufficient resources. LHDs need the ability to make changes at the county level.

In response to questions by Senator Meredith, Ms. Adams stated that a portion of the fees collected by LHDs are given to the DPH for administrative costs and experts at the DPH. If LHDs provide services on behalf of the DPH, the fees should be retained at the local level to maintain staff who deliver those services.

In response to questions by Senator Alvarado, Dr. Moyer stated the LHDs bring people together to come up with what is best for the community. It would be a great strategy for LHDs and MCOs to work together to form partnerships to help local communities become healthier. Ms. Adams stated that this strategy works better in some areas than others. LHDs need to be involved in system changes. Even though LHDs should work with MCOs, it is often a challenge because LHDs funding has to be used on essential services. Senator Alvarado encouraged the MCOs to reach out to the LHDs to find out the needs of the community.

Senator J. Carroll stated that he put together a group of healthcare professionals that did a study and released a report in 2005 that concluded healthcare costs can be lowered from 10 percent to 25 percent if LHDs are adequately funded to provide services and MCOs work with LHDs to find ways to work together to improve services to the community.

Representative Moser stated that taking a comprehensive approach is the smart way to tackle any changes that need to be made in Kentucky. LHDs are the critical piece of the solution.

#### **2019 Legislation**

Representative Addia Wuchner stated



that children are 25 percent of the population, but 100 percent of the future. BR 324, AN ACT relating to healthy goals for the school children of the Commonwealth, sponsored by Representative Addia Wuchner creates a new section of KRS Chapter 158 to establish the goal of increasing time for physical activity to 20 minutes per day or 100 minutes per week in all schools with kindergarten through grade 5 by November 1, 2020; requires the Kentucky Department of Education to identify model programs, provide resources and assessment tools, develop a checklist for collecting data for public reporting, encourage physical activity plans in schools containing grades 6 through 8; requires a report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare and Family Services by December 1, 2019, and annually thereafter on progress toward meeting the goal; and requires sharing aggregate school district and county data with the Cabinet for Health and Family Services. The bill would not require schools hire a physical activity teacher.

BR 325, AN ACT relating to the external child fatality and near fatality review panel, sponsored by Representative Addia Wuchner, amends KRS 620.055 to add four additional new members to the external child fatality and near fatality review panel; requires that the panel additionally report to the Child Welfare Oversight and Advisory Committee; and changes the annual required published report deadline to February 1 from December 1. The 2018 report with recommendations will be released in January 2019 because there were so many cases that needed to be reviewed.

BR 180, A CONCURRENT RESOLUTION calls for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes, sponsored by Representative Danny Bentley. Representative Bentley stated that the field of pharmacology is the response to see effective and safe remedies for life-altering condition such as PTSD, chronic pain, nausea and vomiting, and multiple chlorosis and the desire to alleviate pain and suffering and heal the sick. Pharmacists as well as patients with chronic, painful, or life-threatening conditions have always sought remedies when what was available was insufficient. People are often willing to try preparations that in the end are more harmful than good. Evidence-based science has been recognized as the only safe, effective, and responsible way forward. When there is no careful study, there are unintended consequences of new treatments. The National Institute of Health, the Food and Drug Administration in concert with research experts in pharmacology have pioneered thousands of safe, effective remedies to alleviate and eliminate disease, pain, and suffering. These efforts of these agencies are recognized as a hallmark of excellence around the world. Why would Kentucky not heed the advice of these agencies? There have been barriers to establishing, let alone utilizing, any medical benefits of cannabinoids. The

barriers established by the federal government need to be adjusted to allow the responsible and swift advancement of research. Opioids and nicotine were marketed as harmless, but scientific evidence showed that each of the drugs killed people.

In response to a question by Senator Alvarado, Representative Bentley stated that some people consider the whole plant to be medical marijuana. The entire plant consists of over 1,000 compounds and over 70 compounds of THC. For the FDA to approve a drug, the compound has to be separated and isolated to determine which one is effective through Phase II and Phase III studies. The resolution asks the FDA to define medical marijuana.

Senator Adams stated that Representatives St. Onge and Nemes support the resolution, but will also be filing a bill relating to medical marijuana.

Representative Moser stated that the process for deriving medicinal benefits from THC is actually working, and we need to be patient. Asking for more research is the prudent way to approach the issue.

Senator D. Carroll stated that there has not been enough research done on medical marijuana to know what the effects will be for someone. Representative Bentley stated that the reason research has been held up is because marijuana is a Schedule I drug. The federal government would have to change marijuana from a Schedule I drug to a Schedule II drug. Until this is done, it will discourage professionals from conducting the appropriate research. There are drug interactions with CBD oil, because it is metabolized through the liver. Senator Carroll requested that the co-chairs invite someone from DEA to testify before the committee about changing marijuana from a Schedule I drug to a Schedule II drug. Representative Bentley stated that he could supply members with an article from the DEA about changing marijuana from a Schedule I drug to a Schedule II drug.

Representative Wuchner stated that if the efficacy and urgent need is there for medical marijuana, a request can be made to the FDA to speed up the process of orphan drug status.

#### **Medical Marijuana in the Workplace**

Dianne McFarling, MA, CPS, ICPS, Director, RiverValley Regional Prevention Center, stated that prevention enhancement sites are part of the Department for Behavioral Health, Developmental and Intellectual Disabilities, Prevention and Promotion Branch. Prevention enhancement sites are charged to look at the best evidence-based practices for tobacco, alcohol, marijuana, substance abuse exposed infants, faith-based, and suicide and come up with the best strategies to serve all 120 counties. Each prevention specialist is connected to a community mental health center.

Kentucky has been among the top 5 domestic producers of marijuana for the past 5 years even though it has not been legalized in Kentucky. In 2015, approximately \$800 million worth of marijuana was eradicated by the Kentucky State Police. From 1988 to 2015, Kentucky's top ten marijuana producing

counties were Leslie, Wayne, Clay, Knox, Owsley, Breathitt, Bell Knott, Perry, and Hardin. In 2010, 330,227 plants were eradicated in Kentucky and 527,574 in 2015. We produce enough cannabis to provide 239 joints for every man, woman, and child in Kentucky every year. Growing marijuana is a high-risk, low-profit business. Kentucky traffickers find it safer and more lucrative to bring back medical marijuana or recreational marijuana from California, Colorado, or Oregon, and sell it in Kentucky. Traffickers can buy 1 pound of medical marijuana in California for \$1,500 and sell it in Kentucky for \$6,000. Although marijuana grown in Colorado was not to leave the state, it has been found in 37 other states.

The number one drug that most Americans use is alcohol, second tobacco, and third marijuana. Tobacco use among youth is still higher in Kentucky than other states. As the perception of the risk marijuana goes down, use increases. Research showed that regular use of marijuana compromises the ability to learn and to remember information by impairing the ability to focus, sustain, and shift attention. Long-term use reduces the ability to organize and integrate complex information. A 2012 study published in the *Proceedings of the National Academy of Sciences* reports that adolescents who started using marijuana before the age of 18 when their brains were still developing and continued to use into adulthood, experienced as much as an 8-point decline in IQ scores.

The endocannabinoid system helps to keep brain cell activity in balance, not underactive like depression or ADHD or overactive like epilepsy or PTSD. THC has a much stronger, longer effect than anandamide on brain cells. The potency of marijuana has dramatically increased since 1975. Potency is increased by removing CBD, the medicinal component of cannabis. Efforts to legalize and/or decriminalize marijuana are well funded and picking up strength. Cannabinoids may have therapeutic potential, but smoked marijuana has no future as a medicinal product. Marijuana needs to go through the same FDA process to learn its effectiveness.

FDA approval means the effectiveness and risks as a medicine have been scientifically examined and weighed, interactions with other drugs have been considered, impact on pre-existing conditions has been studied, quantity of dose is established through scientific process, frequency and duration of administration are determined through scientific process, and the best route or method of administration has been determined and it has never been by smoking. Marijuana is heavily targeted to our youth. The United States receives \$14 billion in revenues for alcohol, but societal costs and costs to employment are \$185 billion. Tobacco revenues are \$25 billion but the cost of treatment is \$200 billion.

#### **Adjournment**

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

# INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

## Minutes of the 6th Meeting of the 2018 Interim

December 10, 2018

### Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Monday, December 10, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Joe Bowen, Denise Harper Angel, Paul Hornback, Dan “Malano” Seum, and Damon Thayer; Representatives Tom Burch, Al Gentry, Dennis Keene, Chad McCoy, Jerry T. Miller, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, Arnold Simpson, Diane St. Onge, Walker Thomas, and Susan Westrom.

**Guests:** Senator Max Wise, Representative Michael Meredith, Representative D.J. Johnson, Gail Russell, Acting Secretary of the Cabinet, Carmine Iaccarino, General Counsel, Public Protection Cabinet; Hunter Limbaugh, Wine Institute; Christy Trout, Commissioner, Alcohol Beverage Control; H.E. Corder, Chairman, Heather Becker General Counsel, Kentucky Real Estate Commission; Joe Gibbons, Chairman, Kentucky Board of Auctioneers; Allen Dossey, Purple Toad Winery; Eddie O’Daniel, Kentucky Wineries Association; Joe Sloan Rising Sun Winery; David Miller, VP & Assistant General Counsel, PGA Tour; Marc Wilson, Top Shelf Lobby.

**LRC Staff:** Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Susan Cunningham

### Minutes

The minutes of the November 9, 2018, meeting were approved without objection.

### AN ACT relating to reorganization

Gail Russell, Acting Secretary of the Public Protection Cabinet, said that, in the 1950s, five percent of America’s workforce was required to have a professional license. Today, one-third of the workforce is required to have a professional license. This reorganization bill is different from last year’s bill. During the interim the cabinet has been meeting with legislators, licensees, and licensing boards in order to make accommodations for these groups that are affected by the bill. Committee members have been given a list of 15 items that have been changed from the old bill.

Some of the smaller boards have no plan for succession. They have only one executive director and that person has all personal knowledge regarding the business conducted by that board. This can create a problem if that person becomes ill or retires without notice. Another problem is trying to help constituents

with board problems. The Public Protection Cabinet (PPC) has no authority over any board and therefore cannot assist with constituent issues.

The current bill, when enacted, would allow better management of procurement, finance and personnel issues. It would provide necessary state oversight to allow for anti-trust immunity that will protect the boards individually and as a whole. It allows for cross-board collaboration and an opportunity for best practices due to better communication with each other. Management under one major umbrella organization will provide cost savings and efficiency. Centralization of boards should also bring down the cost of fees.

Representative Koenig commented that the legislature creates boards and is responsible for making sure that there is proper oversight. As an example of the problem from lack of oversight he stated one Executive Director, who had run a board for decades, retired recently with no notice. Accounting had been kept in spiral notebooks at her home. Most board members have no idea about the North Carolina Dental Case that provides them personal liability should something not be done properly.

In response to a question from Representative Keene, Secretary Russell said the provision to cap board members’ daily per-diem had been removed.

Representative Westrom commented that there is a huge barrier to information on the boards. However, there are a number of licensed professions where licensing fees do not generate enough revenue to have adequate funding for their offices. Some professionals, such as Art Therapy, cannot receive third party reimbursement without licensure. When the larger boards have a need they come to the legislature to address their issue and make a statutory change.

Senator Schickel commented that Secretary Russell and her staff have been open and honest and have tried to work with all parties involved.

In response to a question from Representative Miller, Mr. Iaccarino said the current bill draft mandates that the executive director appointment will be made through the cabinet secretary. There are four exceptions, the Board of Medical Licensure, the Board of Pharmacy, the Board of Nursing, and the Board of Accountancy. Secretary Russell said the licensed occupations have been grouped together by membership size. The bill will try to even the work load and have licensees paying similar fees for services they receive.

Russell Travis, M.D., neurosurgeon from Lexington, said he had been a member of the Kentucky Board of Medical Licensure (KBML) for 12 years, and served as president last year. He opposed Representative Koenig’s bill in the last session. Speaking as someone experienced with a licensure board, boards are not challenged by the North Carolina Dental case. The KBML is an independent board with membership dictated by statute. The KBML does license other medical professions such as

physician assistants, acupuncturists, athletic trainers, and surgical assistants. The board is given authority to discipline only licensees. Even when the board promulgates administrative regulations they are subject to legislative approval. As this bill currently stands the board will have to ask permission from the Executive Branch to write regulations. The legislature has granted immunity to the board under KRS 311.603, to act as a licensure board.

The KBML has sufficient state supervision. The board cannot act against a non-licensee. The board would have to request injunctive relief for judicial process. The board’s actions are subject to multiple layers of board review as well as state review. After HB 1 and HB 333 were passed the board was asked to promulgate regulations. These were subject to oversight, and public comment. The legislature assures KBML structure, process, and procedures are compliant with the North Carolina Dental Board case. That case was an anti-trust case involving unilateral action against a non-licensee. The North Carolina Dental Board attempted to keep non-dentists from whitening teeth. Unless seeking an injunction in court, the KBML does not have authority over non-licensees. The case defines what “active state supervision” means including the legislative process and judicial review, which are already provided by our state legislature and judicial system.

There may be boards who have problems and need help; however, the KBML does not. In the case Petrie vs the Virginia Board of Medicine, the board has the authority to regulate chiropractors. Dr. Petrie was a chiropractor that was deemed to have gone above the medical practice acts of his license. Dr. Petrie was disciplined. The Supreme Court ruled that this was not a violation because the Virginia Board of Medicine is allowed to discipline licensees. Also, not even North Carolina has reorganized their boards since the dental case. In August 2017, the Kentucky US Federal Court, Eastern Division heard a case in which the KBML disciplined Dr. Beshear, and Dr. Beshear claims the discipline was anti-trust. The court ruled that is was not. The KBML is immune from anti-trust. In March 2017, the Attorney General ruled that KBML has active state supervision formulated by the Medical Practice Act. The legislature realized the importance of keeping a licensure board as an independent entity, not subject to political decisions or appointments that would affect its ability to carry out legislative intent.

Representative Koenig said he appreciated Dr. Travis comments. He said there are Supreme Court cases that do overrule legislative decisions. There are boards such as the real estate board who make sure that people who are acting as realtors actually are licensed. Staff will confirm, and mail to the committee members, which boards have authority to penalize their members.

Dr. Travis said, concerning the reorganization bill, section two has language encouraging competition and eliminating unnecessary burdens in marketing.

This is a major philosophical change for the KBML. It is not the board's job to encourage competition. The bill talks about active state supervision which the KBML already has. In Section Four, appointing an executive director who has to be approved by the Secretary of the Cabinet politicizes the position which is not appropriate. Another concern is legal counsel. The proposed bill does not allow for hiring legal counsel, but says legal counsel will be provided. The board currently has two attorneys who give legal advice and opinions that keep the board out of damaging litigation. Licensure has become more litigious.

The KBML employs five investigators who are former state police detectives and metro drug officers. These are critical to the KBML to investigate charts and give advice on licensees.

Senator Thayer said the bill did not pass the Senate last year and that Dr. Travis' comments should be considered. The committee should look at keeping the balance between the three branches of government.

#### **Shipping of Wine**

Senator Max Wise said wine shipment to Kentucky has been discussed in this committee previously. Only seven states, Kentucky included, do not allow direct shipment of wine. It is time for Kentucky to look at the direct shipment of wine. Constituents who visit other states such as California and Oregon, want to ship wine home but are told the winery cannot ship into Kentucky. Most Kentucky wine cannot be found in large box stores.

Hunter Limbaugh, South Region Wine Institute, said this legislation is needed. The number of wineries that exist now is well over 10,000. It is also difficult for wineries to find representation at the wholesale level. Even with HB 400 passing last year, it still does not allow direct shipping unless you are at the winery when ordering, or if the customer joins a wine club.

Representative St. Onge commented that on a recent trip to California she visited wineries within two miles of each other. One said they could ship, the other said they could not. Kentucky's laws are confusing.

Senator Schickel said citizens continue, consistently, to talk to him about shipping wine. The legislature has a responsibility to take a serious look at this issue in the upcoming session.

#### **Alcohol in Dry Territories**

Representative Michael Meredith said everyone knows that is illegal to buy alcohol in a dry territory. However, most people do not know that is illegal to consume, transport through, or even have alcohol in your house in a dry territory. His draft legislation will allow alcohol at private events and in homes. This draft would allow wedding venues in dry territories to serve, but not have a cash bar, so a family could provide alcohol at their private event.

Christy Trout, Commissioner of the Department of Alcoholic Beverage Control (ABC), said a literal reading of the law prohibits someone in a dry territory

serving alcohol to guests in their home. Also, if there was a private event, the law as it stands now says you may not purchase your own alcohol, and consume your own alcohol, or serve it to others if you live in a dry territory. The goal of this bill is to modernize the law to allow someone to serve alcohol in a dry territory, at a private event.

Representative Palumbo suggested that on page two, lines 22 and 23, the language "that has been rented for a private event that is not open to the general public" include "where a private event is held." Someone might not rent a facility but just be using a facility. Commissioner Trout responded that one option the ABC was considering was to have language that defines the facility as "not a public place."

In response to Representative Gentry, Representative Meredith said liability was not an issue because the facility can require the person renting the facility to carry liability insurance.

In response to a question from Senator Thayer, Representative Meredith said if a state park facility was rented as a private event this draft would apply. Commissioner Trout added that if some language was changed state parks would be included.

In response to a question from Senator Hornback, Representative Meredith said Kentucky does not license bartenders. However, most venues require that a bartender be hired at an event. Commissioner Trout said Server Training in Alcohol Laws and Regulations (STAR) is available on line. The exam for this training is also online.

In response to a question from Senator Schickel, Representative Meredith said he has lived in dry territory all his life. The key to this bill draft is that the alcohol must be purchased legally so that it is still coming through the three tier system. It is not sold in a dry territory so there would be no cash bars at an event in a dry territory.

In response to a question from Representative Koenig, Commissioner Trout said if a licensed caterer is providing the alcohol then the venue may not need a license.

#### **Mechanical Systems**

Representative D.J. Johnson said Representative-Elect Matt Cook will be the primary sponsor of the bill in the up-coming session. In the 2018 Regular Session, HB 328 had three purposes. One was to allow for licensed mechanical engineers with two years of experience to satisfy the experience requirement for a Master HVAC applicant. This would reduce paperwork. The second item would be to eliminate certain requirement for HVAC license examinations. This is a duplicative process that requires registration with the third party giving the exam and application to state government. Third, inspector applications to a local jurisdiction to become a certified building inspector cannot be filled out until the person is already in the position. The bill would like to reduce administrative processes for HVAC certification.

#### **Kentucky Real Estate Commission**

H.E. Corder, Executive Director of the Real

Estate Authority said the commission would like to expand the licensure period to two years. Improving the quality of continuing education is also an issue.

Heather Becker, General Counsel for the Real Estate Authority, said changing licenses from one year to two will require a change in how fees are issued. They would need a fluctuating fee with a cap rather than an automatic fee. Also, the term "escrow license" will be changed to "inactive license."

#### **Kentucky Board of Auctioneers**

Joe Gribbons, Chairman of the Kentucky Board of Auctioneers, said last session HB 368 passed the House. The board would like to have the same bill this year with one change. The change would be to change injunctive relief for a non-licensed person violating the statutes to be moved from Franklin County to the county in which the violation occurs or the county of the residence of the violator. The bill will also define "escrow account." In statute currently the term is used, but is not defined. They would also like to have discretion to waive "high school diploma" in certain situations where an individual can demonstrate that they have life experience and competency. Also, to allow the board can discipline licensees within 30 days. Currently there is no time limit for submitting requested documentation to the board. Also, to define an Auction House as being in a fixed location rather than on-line, and to clarify "bid minimum."

#### **Kentucky Wineries Association**

Allen Dossey, owner of Purple Toad Winery, said the wine industry in general provides the state \$1.1 billion in tax revenue. Small farm wineries also increase tourism. Wine making skills are continually improving. One of the main challenges in the industry is production limits. There are two licenses, a small farm winery license and a winery license. The winery license does not allow on-premises tastings, consumption, or sales. The industry would like to have that changed in statutes.

The industry is also asking to raise the gallon limit on small farm wineries from 100,000 to 500,000 gallons. When a winery reaches the limit it prohibits that business from growing. The wholesale tax exemption helps wineries who make less than 50,000 gallons of wine. However, small farm wineries who make more than 50,000 gallons now receive an expensive tax bill. Therefore, the industry is requesting a tax exemption at the 100,000 gallon level. The industry would also like to be able to sell wine at 11:00 AM. Visitors to wineries would like to be able to purchase before 1:00 PM. Small farm wineries would like to be able to self-distribute. There are other states who do this, particularly to restaurants. The wine industry would also like 4% of the wholesale excise tax on wine sold in Kentucky to be used to help with funding for the wine council, the state enologist, the state viticulturist and wine marketing.

The wine association has consulted with the ABC who cannot endorse the requested changes. However, ABC saw no regulatory issues subject to the final bill draft.



Representative Miller commented that he saw no reason not to compete with other states.

In response to a question from Representative Westrom, Mr. Dossey said there is a lot of money in the wine industry.

Representative Koenig clarified that Kentucky has been able to ship for quite a while, before other states were able to. Also, the reason for the gallon cap was because of the advantage of a different tax rate.

In response to a question from Senator Thayer, Mr. Dossey said Purple Toad is bumping against the 100,000 gallon cap. Purple Toad has contracted with Wal-Mart in three states. In 2016, 100,000 gallons was plenty; however, now the winery is in Kroger, and in Liquor Barn in five states. There are probably five to seven other wineries who are also approaching the 50,000 gallon cap. For some wineries going over the 50,000 gallon limit is cost prohibitive because of the wholesale tax.

In response to a question from Representative Koenig, Mr. Dossey said the local fiscal court cannot allow wineries to open earlier due to the state mandate of 1:00 PM. Also, production of more than 100,000 gallons is not allowed on a small farm winery license.

#### **Data Integrity in Sports Wagering**

David Miller, Counsel for the PGA Tour, said sports betting can provide Kentuckians another way to enjoy the games they love, while also generating revenue for the state. Betting does create risks for the consumer as well as sports, so it should be considered carefully. The leagues ask that legislators consider five principles. These principles help in promoting the integrity of sport, protecting consumers and generating revenue for the state and the business.

First, any bill must protect the integrity of sports. One event of match fixing or betting corruption can devastate a league for generations. Sharing information with leagues is essential for integrity monitoring, assisting league investigations and giving the league some voice in bets being offered to avoid bets that are susceptible to match fixing. Second, use official data supplied by leagues. The official source is the most secure data and gives consumers confidence. In-play betting, or live betting, is becoming more popular. In golf there would be shot by shot betting. An unofficial source could give inaccurate measurement for a tee to green drive. Often off-shore websites put illicit software on official websites to “scrape” information to turn around for betting. Third, legislation should offer mobile betting. Churchill Downs offers the Twinspires app with success. It is estimated that it could double revenue in Kentucky. The fourth point is supporting legislation that requires operators have self-exclusion programs for problem gamblers. Advertise responsibly and promote responsible betting. Fifth, the PGA Tour is asking that legislation include a royalty of .25 percent of the bets that will be paid by the operators to the leagues. For every \$100 bet the operator would pay .25 cents to the leagues.

There is precedent for a royalty. In horse racing under the interstate horse racing act, a host track

received a percentage of bets placed at other tracks. When a bettor at Saratoga places a bet at Keeneland, Keeneland receives a percentage of that bet from Saratoga. Ultimately the PGA Tour believes that sports betting will be more successful in Kentucky if there is a partnership created with leagues, operators and the state.

In response to a question from Representative St. Onge, Mr. Miller said there would not be a royalty paid when a bet is being placed inter-track. The American Gaming Commission released a study conducted by Oxford Economics, which projected Kentucky to generate \$9.4 million in tax revenue without mobile betting and \$18.6 million with mobile betting.

In response to a question from Representative Koenig, Mr. Miller said the PGA Tour would not be asking for a royalty for people who could use real-time information to make a wager. Piracy and web scraping are yielding unofficial data. The PGA Tour feels that people should not be allowed to come into their tournaments and take information without paying a royalty. Las Vegas is a very small part of the overall betting market. In-play betting has grown with the rise in technology in the last 10 years. The state of Nevada has not paid a royalty. The PGA Tour is taking a comprehensive look at the best model for promoting integrity, protecting consumers, and generating revenue. When Representative Koenig asked if royalties were paid for sports bets in Europe Mr. Miller said yes, but just in France.

Representative Koenig yielded to Senator Schickel for the reading of the resolution in honor of Senator Joe Bowen retiring.

Representative Koenig read a resolution in honor of Representative Arnold Simpson retiring.

There being no further business, the meeting was adjourned at 12:07 PM.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE Minutes**

November 20, 2018

### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, November 20, 2018, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Larry Brown, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Larry Brown, Co-Chair; Senators Julian M. Carroll and Rick Girdler; Representatives Dennis Horlander and Steven Rudy.

Guests: Ken Marks, System Director of Facilities and Support Services, Kentucky Community and Technical College System; Scott Aubrey, Director, Division of Real Property, Department for Facilities and Support Services; Donna McNeil, Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

### **Approval of Minutes (October 16, 2018)**

A motion was made by Representative Rudy to approve the minutes of the October 16, 2018 meeting. The motion was seconded by Senator Girdler and approved by voice vote.

### **Correspondence and Information Items**

Ms. Halloran reported correspondence and information items. The first were the postsecondary notices of intent to use the public-private partnership (P3) and alternative construction contracting project delivery methods. Pursuant to KRS 45A.077, the University of Kentucky (UK) submitted the request for proposal (RFP) utilizing the P3 project delivery method for the mixed use Improve Campus Parking and Transportation System (Parking Structure #5), and pursuant to KRS 45A.180, Northern Kentucky University submitted the RFP utilizing either the construction management at-risk or construction manager-general contractor project delivery methods for the Construct/Acquire New Residence Hall 2016-2018 project.

UK Healthcare purchased two items of medical equipment with restricted funds, a \$1.1 million computed tomography (CT) scanner for Good Samaritan Hospital and a \$2.5 million robotics assisted surgical system for Chandler Hospital.

The Kentucky Community and Technical College System (KCTCS) purchased a \$1.2 million Driver Simulator for the Kentucky Fire Commission with the commission's restricted funds. \$1 million was authorized in HB 200 with the residual funds from KCTCS's Equipment Pool authorization.

Lastly, the Louisville Arena Authority submitted its annual report pursuant to KRS 65.4931(3), and Section 8.22 of the Loan Agreement for the Series 2017 bond issue.

### **Lease Report from KCTCS**

Mr. Marks reported a lease modification for the KCTCS System Office Building extending the current expiration date of December 1, 2023 through June 30, 2034 to amortize \$5 million in renovation costs. The \$50,290.30 current monthly rent will average that amount over the extended term.

Representative Brown asked about KRS 45.763 approval in the appropriations bill for the \$5 million to be borrowed by the City of Versailles for the renovations and the change from KCTCS's initial plan of acquiring the System Office Building through paying off the City of Versailles's Series 2016 bond issue. Mr. Marks stated that KCTCS is considering the arrangement a lease under KRS 56.813 and that KCTCS is not obligating any money outside the biennium.

A motion was made by Representative Rudy to approve the lease modification, seconded by Senator Carroll, and approved by unanimous roll call vote.

### **Lease Report from the Finance and Administration Cabinet**

A motion was made by Senator Carroll to roll the four lease renewals into one roll call vote, seconded by Representative Rudy, and approved by voice vote.

Mr. Aubrey reported four lease renewals under the same terms and conditions. The first was for the Unified Prosecutorial System in Jefferson County, \$16.55 per square foot, through June 30, 2020.

The second was for the Department of Alcoholic Beverage Control in Franklin County, \$7.93 per square foot, through June 30, 2022.

The third was for the Cabinet for Health and Family Services in Letcher County, \$9.26 per square foot, through June 30, 2020.

The last renewal was for the Department for Libraries and Archives in Franklin County, \$10 per square foot for the office space, \$5.41 per square foot for the warehouse space, through June 30, 2027.

A motion was made by Representative Rudy to approve the four lease renewals, seconded by Senator Carroll, and approved by unanimous roll call vote.

#### **Report from the Office of Financial Management**

A motion was made by Representative Rudy to roll the KIA Fund A loans and one of the Fund B loans (City of Murray) into one roll call vote, seconded by Senator Carroll and approved by voice vote.

Ms. McNeil submitted various loan requests. The City of Butler (Pendleton County) requested a \$93,331 increase to its Fund A (Clean Water State Revolving Fund Loan Program) loan for a \$1,080,574 total loan amount. The [Sewer System Rehabilitation] project will correct infiltration and inflow issues with the wastewater collection system and includes the rehabilitation of a lift station. The increase is for the paving contract to repair damage during construction from heavy equipment. The monthly sewer rate, effective July 2018, is \$37.03 for 4,000 gallons. The proposed rate increase, effective July 1, 2019, is \$38.61 for 4,000 gallons. The system has a CPI [Consumer Price Index] clause. The term is 20 years at 1.75 percent.

The City of Murray (Calloway County) requested a \$1.45 million Fund A loan. The [Combined Sewer] project will reduce infiltration into the wastewater collection system and eliminate a sanitary sewer overflow by replacing manholes and rerouting sewer around the city. The sewer rate, effective July 2018, for 4,000 gallons is \$42.84 inside the city and \$67.89 outside the city. The term is 20 years at .50 percent.

The City of Murray requested a \$1.5 million Fund B (Infrastructure Revolving Loan Program) loan. The loan will reimburse the city for a portion of the construction costs for the [Clearwell at Water Treatment Plant] project, the demolition and construction of a new one million gallon clearwell with a high service pump station projected to be complete in January 2019. The reimbursement will offset a possible rate increase as debt service will be due in 2020 for the wastewater treatment plant expansion. The drinking water rate, effective July 2018, for 4,000 gallons is \$20.97 inside the city and

\$32.08 outside the city. The term is 20 years at .50 percent interest.

Representative Rudy moved to approve the Fund A loans and the Fund B loan (City of Murray), seconded by Representative Horlander, and approved by unanimous roll call vote.

Laurel County Water District #2 submitted a \$445,000 Fund B loan request, matching a Section 531 U.S. Army Corp of Engineers grant at 25 percent. The grant will fund the [Fariston Water Storage Tank] project, a new 500,000 gallon elevated storage tank for Greer Industrial Park near London which will improve service for approximately 1,200 existing customers and enhance the level of fire protection. The water rate, effective March 14, 2016 is \$25.08 for 4,000 gallons. The proposed increase to \$31.33 for 4,000 gallons will require Public Service Commission (PSC) approval and will also fund two US Rural Development projects. The term is 30 years at .50 percent.

Representative Brown suggested that the motion to approve the Fund B loan be contingent upon PSC granting a Certificate of Public Convenience and Necessity and approving a water rate increase sufficient to maintain a 1.1 debt service coverage ratio.

Senator Carroll moved to approve the Fund B loan, contingent upon PSC granting a Certificate of Public Convenience and Necessity and approving a water rate increase sufficient to maintain a 1.1 debt service coverage ratio. The motion was seconded by Representative Rudy, and approved by unanimous roll call vote.

#### **New Debt Issue**

Mr. Barrow submitted the Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Backed Notes to be issued in one or more tranches for the acquisition of Federal Family Education Loan Program (FFELP) loans, which have at least a 97 percent federal guarantee. The transaction differs from prior transactions in that the specific loan portfolios to be acquired are not yet identified. This transaction will utilize \$325 million of the \$460 million authorized by KHESLC's Board of Directors for fiscal year 2019 debt issuance.

In response to queries from Representative Brown regarding rehabilitated FFELP loans, Mr. Carlson said that although the FFELP program was discontinued, there are still legacy FFELP loans. If one defaulted on a FFELP loan, then one may rehabilitate by making nine on-time payments within a ten month time period. Upon rehabilitation, the Kentucky Higher Education Assistance Authority, the guarantee agency, would sell the rehabilitated loan to a FFELP lender such as KHESLC. FFELP loans are federally guaranteed at either 97 or 98 percent depending on the first disbursement date or at 100 percent with special circumstances such as death or disability.

A motion was made by Senator Carroll to approve the new debt issue, seconded by Representative Horlander, and approved by unanimous roll call vote.

#### **Previous Debt Issues**

Mr. Barrow next reported the Kentucky Asset/Liability Commission (ALCo) Agency Fund 2018 Direct Loan/Project Note issue. Proceeds from the direct placement note financed the remaining \$27.7 million of KCTCS's BuildSmart capital projects. There were two prior bond transactions for the BuildSmart program. The BuildSmart program had legislation authorizing KCTCS to assess a fee of up to \$8 per credit hour for debt service. Due to enrollment fluctuations, the amounts collected could not be projected with certainty. Therefore, the variable rate transaction, 70 percent of the 3-month LIBOR plus one percent, was structured so that additional principal could be paid upon fee receipts. A similar structure was used for the unemployment insurance trust fund as well as other transactions. KCTCS already made two principal payments totaling several million dollars.

Information on the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (J.O. Blanton House Apartments Project), Series 2018; financing the acquisition, rehabilitation, and equipping of a multifamily residential rental facility containing 256 units located in Louisville, was included in the meeting materials.

#### **School District Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation**

A motion was made by Representative Rudy to roll the school district bond issues into one roll call vote, seconded by Senator Carroll, and approved by voice vote.

Mr. Barrow submitted three school district bond issues with School Facilities Construction Commission (SFCC) debt service participation for projects [in Kenton, Mercer, and Muhlenberg Counties]. The total estimated issuance amount was estimated at \$11.2 million, with SFCC's just under 40 percent portion of approximately \$4.3 million. No tax increases were necessary to pay debt service for any of the bond issues.

A motion was made by Representative Rudy to approve the school district bond issues, seconded by Senator Carroll, and approved by unanimous roll call vote.

Representative Brown thanked the committee, saying that it has been a great honor to serve as co-chair.

Representative Rudy commented that he has been on the committee for several years and that Representative Brown, amongst the best of the chairmen, will be missed.

With there being no further business the meeting adjourned at 1:28 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

January 8, 2019

#### **Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, January 8, 2019, at 3:30 PM, in Room 131 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julian M. Carroll, and John Schickel; Representatives Chris Fugate, Al Gentry, and Mark Hart.

Guests: Zeb Weese, Stephanie Craycraft, Katie Marks, Patty Clark, Cassandra Weiss, and Joseph Bowman.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Senator Carroll to approve Minutes of the December 2018, meeting of the committee. Representative Gentry seconded the motion, which passed without objection.

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

A motion was made by Representative Hart 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 Meredith seconded the motion, which passed without objection.

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

A motion was made by Representative Hart 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 Meredith seconded the motion, which passed without objection.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

##### **BD OF LICENSURE FOR PROFESSIONAL ENGINEERS & LAND SURVEYORS**

Webster Land Surveying, LLC, 1900003272.

##### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Locumtenens.Com, LLC, 1900003324; Tri-State Podiatric Medical Services PSC, 1900003336; Crown Services, Inc., 1900003337.

##### **CHFS - OFFICE OF THE SECRETARY**

Natasha L. Kinnan, PSC, 1900002824.

##### **COUNCIL ON POSTSECONDARY EDUCATION**

Sturgill, Turner, Barker & Moloney, PLLC, 1900003160.

##### **DEPARTMENT FOR COMMUNITY BASED SERVICES**

Public Consulting Group, Inc., 1900002842; Collaborative Safety, LLC, 1900003290.

##### **DEPARTMENT FOR INCOME SUPPORT**

Anthony Greg Barnes, 1900002878.

##### **DEPARTMENT OF EDUCATION**

NCS Pearson, Inc., 1900003291.

##### **DEPARTMENT OF HIGHWAYS**

Palmer Engineering County, 1900003312.

##### **DEPARTMENT OF INSURANCE**

K Squared, 1900003289.

##### **DEPARTMENT OF MILITARY AFFAIRS**

1 Asterisk Safety Consultants, LLC, 1900003130.

##### **ECON DEV - OFFICE OF THE SECRETARY**

Eva Garland Consulting, LLC, 1900003200.

##### **KENTUCKY RETIREMENT SYSTEMS**

Donna Fay Sadler, 1900003221; Nancy K. Mullen, 1900003222; Donald Merz, 1900003223; William Keller, MD, 1900003224; Neeraj Mahboob, 1900003225; John E. Albers, 1900003226; Paul Anthony Ebben, 1900003320.

##### **KENTUCKY STATE POLICE**

Keith Baker, 1900003252; James Jones, 1900003262; Steven L. Oliver, 1900003269; Luther Vanhoose, 1900003328.

##### **KY PUBLIC SERVICE COMMISSION**

Leah Faulkner, 1900003207.

##### **MURRAY STATE UNIVERSITY**

Attain, LLC, 015-19.

##### **NORTHERN KENTUCKY UNIVERSITY**

Under\_Score Branding, LLC, 209-129.

##### **UNIVERSITY OF KENTUCKY**

TEconomy Partners, LLC, K19-233.

##### **UNIVERSITY OF LOUISVILLE**

Willis Towers Watson, Inc., 19-068.

#### **THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

##### **AUDITOR OF PUBLIC ACCOUNTS**

Dean Dorton Allen Ford, PLLC, 1900001044.

##### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Res-Care, Inc., 1900001582; The Chyron Group, LLC, 1900001728; M.S.M. Solutions, LLC, 1900002181.

##### **BOARD OF MEDICAL LICENSURE**

Multi, 1900000777.

##### **DEPARTMENT FOR PUBLIC HEALTH**

Multi, 1900001212.

##### **DEPARTMENT OF HIGHWAYS**

GRW Engineers, Inc., 0700004081; Municipal Engineering Company, 1000000390; QK4, 1200000162; Stantec Consulting Services, Inc., 1200002239; Palmer Engineering County, 1500001283; Applied Pavement Technology, Inc., 1800001349; Haworth Meyer Boleyn, Inc., 1900003263.

##### **FACILITIES & SUPPORT SERVICES**

K. Norman Berry Associates, 1500000668; Staggs and Fisher Consulting Engineers, Inc., 1700002721; EOP Architects, PSC, 1900002546.

##### **KENTUCKY RETIREMENT SYSTEMS**

Joyce Merritt, 1900001587.

##### **MURRAY STATE UNIVERSITY**

Luckett & Farley Architects, Engineers and Construction Managers, Inc., 019-18; Luckett & Farley Architects, Engineers and Construction Managers, Inc., 020-18.

##### **UNIVERSITY OF KENTUCKY**

Champlin Architecture, A181070; Staggs & Fischer Consulting Engineers, A181160.

##### **UNIVERSITY OF LOUISVILLE**

Wyatt Tarrant & Combs, 19-037; HBSA dba/PIRE, 19-048.

##### **WORKERS' COMPENSATION FUNDING COMMISSION**

Actuarial and Technical Solutions, Inc., 1900000811.

#### **THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

##### **ADMINISTRATIVE OFFICE OF THE COURTS**

Pennyroyal Regional Mental Health Mental Retardation Board, 1900003284; Mountain Comprehensive Care Center, 1900003285; Kentucky River Community Care, Inc., 1900003286.

##### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Appalachian Regional Healthcare, Inc., 1900002524; Kentucky River Community Care,



Inc., 1900003119; Communicare, Inc., 1900003124; CHFS Department for Community Based Services, 1900003175; Bless the Lord Church, Inc., 1900003235.

COUNCIL ON POSTSECONDARY EDUCATION

National Center for Higher Education Management Systems, Inc., 1900003026.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Nicholas County Conservation District, 1900002830; Morehead State University, 1900003074; Commonwealth Office of Technology, 1900003083; Boone County Fiscal Court, 1900003259.

DEPARTMENT FOR LIBRARIES & ARCHIVES

Lexington Public Library, 1900002685; Henry County Public Library, 1900002712; Rowan County Public Library, 1900002750.

DEPARTMENT FOR LOCAL GOVERNMENT

Perry County Fiscal Court, 1900002758; Magoffin County Fiscal Court, 1900003031; Knott County Fiscal Court, 1900003032; Knott County Fiscal Court, 1900003045; Hopkins County, 1900003057; Martin County Fiscal Court, 1900003058; Martin County Fiscal Court, 1900003070; Union County Fiscal Court, 1900003073; Union County Fiscal Court, 1900003075; Lawrence County, 1900003107; The Methodist Home of Kentucky, Inc., 1900003108; Floyd County Fiscal Court, 1900003116; Ohio County Fiscal Court, 1900003152; Ohio County Fiscal Court, 1900003154; Bourbon County, 1900003203; City of Guthrie, 1900003250; City of Flemingsburg, 1900003254; Hopkins County, 1900003280; Perry County Fiscal Court, 1900003310; Boone County, 1900003322; City of Mt. Vernon, 1900003323; City of Whitesburg, 1900003349; Carter County Fiscal Court, 1900003370.

DEPARTMENT FOR MEDICAID SERVICES  
University of Kentucky Research Foundation, 1900002839.

DEPARTMENT FOR NATURAL RESOURCES  
TreesLouisville, Inc., 1900003131.

DEPARTMENT FOR PUBLIC HEALTH  
University of Louisville Research Foundation, 1900003019; University of Kentucky Research Foundation, 1900003173.

DEPARTMENT OF AGRICULTURE  
University of Kentucky Research Foundation, 1900003060; Multi, 1900003210; Multi, 1900003211.

DEPARTMENT OF EDUCATION  
University of Kentucky Research Foundation, 1900002944; Advance Education, Inc., 1900003117; Fayette County Board of Education, 1900003201; Garrard County Board of Education, 1900003206; Science Hill Independent School District, 1900003359.

DEPARTMENT OF MILITARY AFFAIRS  
Multi, 1900002847.

ECON DEV - OFFICE OF THE SECRETARY  
Awesome Center for Entrepreneurship, Inc., 1900002968; Shaping Our Appalachian Region, Inc., 1900003125; Northern Kentucky University Foundation, Inc., 1900003146; University of Louisville Research Foundation, 1900003148.

HORSE RACING COMMISSION  
New Vocations Racehorse Adoption Program, 1900002940.

KENTUCKY FISH AND WILDLIFE RESOURCES  
Jackson Purchase Foundation, 1900001614.

KY INFRASTRUCTURE AUTHORITY  
Perry County Fiscal Court, 1900003208.

OFFICE OF ENERGY POLICY  
Tennessee Valley Authority, 1900002460.

OFFICE OF INSPECTOR GENERAL  
University of Kentucky Research Foundation, 1900002938.

UNIVERSITY OF KENTUCKY  
American Cancer Society, 006-19.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS  
Bluegrass Prevention Center Regional MH-MR Board, Inc., 1800001094.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
Department of Corrections, 1900000520; University of Kentucky Research Foundation, 1900000718; Bluegrass.org, 1900001824; Lifeskills, Inc., 1900001826.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING  
Multi, 1900000633; Multi, 1900000822; Multi, 1900000876; Multi, 1900001119; Multi, 1900001218.

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Goodwill Industries of Kentucky, Inc., 1800001631; Department of Workforce Investment, 1800001633; Kentucky Center for Education and Workforce Statistics, 1800001635; Community Action Kentucky, Inc., 1800001946; Kentucky Housing Corporation, 1800001948.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES  
Multi, 1900001047; Multi, 1900001719.

DEPARTMENT FOR LOCAL GOVERNMENT  
City of Cynthiana, 0800010040; City of Auburn, 1400001679; City of Columbus, 1600000327; Bell County Fiscal Court, 1600000948; City of Newport, 1600000954; City of Liberty, 1600001239; City of Irvine, 1600001822; City of Central City, 1600001987; City of Elkhorn City, 1600002566; Warren County Judge Executive, 1600003297; City of Pikeville, 1600003335; City of Wayland, 1600003841; City of McHenry, 1700000116; City of Fleming Neon, 1700001008; Pike County Fiscal Court, 1700001150; Breathitt County Fiscal Court, 1700001206; City of Gamaliel, 1700002375.

DEPARTMENT OF AGRICULTURE  
Multi, 1700001857.

DEPARTMENT OF EDUCATION  
Erlanger-Elsmere Board of Education, 1900002880; Erlanger-Elsmere Board of Education, 1900002882.

DEPARTMENT OF JUVENILE JUSTICE  
Eastern Kentucky University, 1900002193.

TRANSPORTATION - OFFICE OF THE SECRETARY  
University of Kentucky Research Foundation, 1800001354-1; University of Kentucky Research Foundation, 1800001704; University of Louisville Research Foundation, 1800001726; University of Louisville Research Foundation, 1800001728.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

OFFICE OF KY NATURE PRESERVES  
Daniel C. Dourson, 1900003276. Zeb Weese discussed the contract with the committee. A motion was made by Senator Meredith to disapprove the contract. Representative Lee seconded the motion, which failed with Senator Carroll, Representative Hart, Representative Fugate, and Representative Gentry voting no. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed with Representative Lee, Senator Schickel and Senator Meredith voting no.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES  
Reach of Louisville, Inc., 1900000702. Stephanie Craycraft, Katie Marks, and Patty Clark discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed.

Representative Gentry seconded the motion, which passed.

#### KENTUCKY RETIREMENT SYSTEMS

Suzanne Lee Shaffar, 1900001621; Sammie Pigg, 1900001632. Cassandra Weiss and Joseph Bowman discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

Senator Meredith requested that the staff contact the Commissioner of Department for Local Government and request that she attend the next committee meeting for discussion regarding the inability of the Cabinet to resolve the FY 2018 funding dispute between the Cabinet and Area Development Districts across the Commonwealth as well as the failure to finalize the joint funding agreement for fiscal year 2019.

There being no further business, the meeting adjourned at 4:09 PM.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

### **Minutes**

December 12, 2018

#### **Call to Order and Roll Call**

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, December 12, 2018, at 1:30 PM, in Room 131 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Danny Carroll and Stephen Meredith; Representatives Jim Gooch Jr. and Melinda Gibbons Prunty.

Guests: Jill Hunter, Senior Deputy Commissioner, Stephanie Bates, Deputy Commissioner, Dr. Gil Liu, Medical Director, and Carl Ishmael, Director of Program Integrity Division, Department for Medicaid Services, Cabinet for Health and Family Services; Elizabeth Caywood, Deputy Commissioner, Lisa Dennis, Chief of Staff, and Kevin Newton, Budget Director, Department for Community Based Services, Cabinet for Health and Family Services; Dr. Mark Jorrich, MD, Immediate Past President, Kentucky Society of Addiction Medicine; Amanda Hahn, ACLU of Kentucky, Peer Support Counselor; Carolyn Sketch-Basford, RRT, Clinical/Sales Manager, Pulmonary Partners, Kentucky Medical Equipment Suppliers Association; Mike Downing, President, RSVP Home Care, Kentucky Medical Equipment Suppliers Association; Gretchen Davis, Executive Director, Muhlenberg County Opportunity Center; Jane Stahl, Advocate; Amanda Stahl, Social Worker,

Advocate; Jamie Hurt-Mueller, CDO Eligibility Coordinator Bluegrass Area, Agency on Aging and Independent Living, Bluegrass Area Development District; Rebecca Cheek, Director of Pharmacy, Grace Health; Milt Gardner; Alecia Fuller, Senior Case Manager, Centerstone of Kentucky; and Heidi Schissler, Kentucky Protection and Advocacy.

LRC Staff: DeeAnn Wenk, CSA, Dana Simmons, and Becky Lancaster.

#### **Approval of Minutes**

A motion to approve the minutes of the August 15, 2018 meeting was made by Representative Gooch, seconded by Representative Prunty, and approved by voice vote.

#### **Durable Medical Equipment Reimbursement**

Mike Downing, President, RSVP Home Care, Kentucky Medical Equipment Suppliers Association, stated that his durable medical equipment (DME) business is having issues with the Kentucky Medicaid managed care organizations' (MCOs) unfair practices and constant inconsistencies. His business must follow a different set of rules for each of the five MCOs and Medicaid in regards to prior authorizations. He would like to see all the MCOs and Medicaid follow one set of rules and standards. He would like those rules to be accessible to all without charge. He would like to have consistency across the MCOs regarding prior authorizations' required documentation to provide a continuation of services if a member changes their plan.

He is asking for reimbursement at 100 percent of the Medicaid fee schedule that is common practice in other states. Medicaid has established a fee schedule that it deemed was appropriate and affordable to the state. DME providers are constantly being asked to provide more documentation and are subject to more audits. These reviews are costly to the business and prohibit the DME provider's ability to provide for patients. MCOs are proposing to pay DME providers 65 to 90 percent of the allowable costs which is unsustainable for any business. He would like the Kentucky Department for Medicaid Services (DMS) to establish an equal period of time for recoupment of monies that are done through audits so that the provider has the same time period to rebill or refile a claim.

Carolyn Sketch-Basford, RRT, Clinical/Sales Manager, Pulmonary Partners, Kentucky Medical Equipment Suppliers Association, stated that Medicare and Medicare Advantage plans provide at least the set amount, quantity of supplies, and the services that traditional Medicare would pay for to the providers. She would like see Medicaid follow that example.

Stephanie Bates, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS), stated that 2018 Regular Session House Bill 69 and the Department of Insurance (DOI) medical necessity criteria, that will be procured, will help to address the rules and consistency issues in regards to documentation

for prior authorizations among the MCOs. Per the contracts with the MCOs, when a member switches from fee-for-service to managed care, the MCOs must honor the previous prior authorization for 90 days. Each provider must negotiate their own rates in the contracts with the MCOs. DMS wants to address the issue of the DME providers not feeling that they have the option to negotiate with the MCOs. DMS cannot contractually require the MCOs to pay the same rates as fee-for-service plans. The MCOs are only required to cover the minimums that are set in regulations and statutes. There are two types of recoupments; eligibility recoupments and medical necessity recoupments. Eligibility recoupments are in regards to timely filings. Medical necessity recoupments ask for documentation that prove the information given for the prior authorization is true and there are appeal rights.

In response to questions and comments from Senator Alvarado, Mr. Downing stated that Medicare has three different types of reimbursement rates and is difficult to compare it to Kentucky Medicaid. In January, the Cures Act was passed federally and mandated that states review the fee schedules. Kentucky lowered rates to mimic the federal rates. Ms. Bates stated that reimbursement amounts are negotiated between the provider and the MCOs. DME providers are different because they are at the mercy of the order of the physician or whoever is ordering the service or product that they would provide. DMS is aware of the negotiation issues between MCOs and DME providers. Mr. Downing stated that there is moral and legal liability for a DME provider to continue services for a member. He would need a discontinuance order from the physician before legally removing oxygen from a patient. Ms. Bates stated that the fee schedule was originally meant for the fee-for-service plan. Providers who are not following the rules are causing problems for good providers.

In response to questions and comments from Senator Meredith, Ms. Bates stated that House Bill 69 regarding credentialing was passed in the 2018 Regular Session. DMS wants to review and change the way MCOs report on DME providers. DMS hopes to require that if the physician sees the patient one time a month in a rural county that it does not count as a fulltime equivalent for a physician. MCOs will have to have fulltime equivalent to meet the access and availability standards.

In response to questions and comments from Senator Carroll, Mr. Downing stated that in the contracts that he has reviewed, the MCOs are using a percentage of a fee schedule. MCOs are paying the lesser of a percentage of the Medicaid allowable, a percentage of the Centers for Medicare & Medicaid Services (CMS) allowable, or a percentage of the Medicare allowable. Providers are left to guess as to what they will apply to that claim or who will review the claim for prior authorizations. Providers do not know the result of the prior authorization until



payment or non-payment of the claim. The same issues are not only affecting DME providers but all providers working with MCOs.

### **Presentation on Behavioral Health and Medicaid Managed Care Organizations**

Gretchen Davis, Executive Director, Muhlenberg County Opportunity Center, stated that the Muhlenberg County Opportunity Center is a nonprofit center that has served intellectually disabled adults for over 50 years. The waiver program for people with intellectual disabilities has a waiting list with thousands of people. In the rural county of Muhlenberg, only nine people qualified for the waiver services. The center could not operate with only nine people. She was made aware of regulations under 907 KAR Chapter 15 that helped the center to become a behavior health multispecialty group and could serve more people through this facet of Medicaid. To participate a client must have an intellectual disability with documentation of an additional psychiatric diagnosis. The comprehensive community support services allow people to live with maximum independence in their communities. In the program, a community support associate works with each individual to address all of the goals and needs of the client.

It took approximately 90 days to be approved to become an agency with Medicaid. There were no checklists or instructions, it was trial and error when moving forward for the approval. After the Medicaid approval, she was told the center must contract with each of the five MCOs. She started the process in February and as of December she only has contracts with two of the five MCOs. She shared her process timeline with the committee. She has waited months and weeks for people to return her phone calls. The EXPLORE programs stands for Exceptional People Learning, Observing and Receiving quality life Experiences. The center hopes to help their clients to learn to work and make a decent wage. In Muhlenberg county about 20 to 30 special needs children graduate each year and are not being placed anywhere. The center has three goals for all their clients that include community access, health, and vocational options.

In response to questions and comments from Representative Moser, Ms. Davis stated that the center is established through behavioral health classifications instead of the waiver programs. Clients must have an intellectual disability plus a psychiatric diagnosis to participate in the program at the Muhlenberg County Opportunity Center. There is no regulation regarding a time limit at the center. Clients are at the center from 24 to 40 hours a week depending on what they are doing with their mentors. The center was told that people who had applied for waivers could have a possible seven year wait for waiver approval.

In response to questions and comments from Senator Alvarado, Ms. Davis stated that the goal of the Muhlenberg County Opportunity Center is to

assist and train the clients so they will be able to leave the sheltered workshop and maintain employment in the community. The center varies its program when working with younger and older clients. The center would like to start their own shredding business for better employment opportunities for their clients.

### **Update on Medicaid Credentialing**

Carl Ishmael, Director, Program Integrity Division, Department for Medicaid Services, Cabinet for Health and Family Services, stated that if there are any complaints that providers cannot get enrolled into Medicaid to forward the provider's information and issue to him. On average DMS receives 600 to 800 new provider applications a month. DMS has approximately 43,000 enrolled Medicaid providers. DMS also receives approximately 3,000 maintenance items from providers such as change of address, new physician to new practice, and bank account changes. DMS is working on an online, automated enrollment system to streamline the system called Partner Portal. CHFS has dedicated substantial resources into working through the requirements for 2018 Regular Session House Bill 69 and developing the request for proposal (RFP). There is not date set as to when the RFP will be released. The Program Integrity Division is working with the Center for Program Integrity (CPI) through CMS that also provides oversight for provider enrollment.

In response to questions and comments from Representative Gibbons Prunty, Mr. Ishmael stated that the use of the Partner Portal program that is in pilot, may have helped to eliminate some of the issues for Ms. Davis. The enrollment process is still a manual process but CHFS is working to automate the process. The Program Integrity Division would like to encourage providers to contact their offices with the providers NPI and address, if it has taken longer than 90 to 120 days to get enrolled with Medicaid. The Program Integrity Division would like to review the issue and process to get the issue resolved.

In response to questions and comments from Senator Alvarado, Mr. Ishmael stated that the 600 to 800 new provider applications a month cover the spectrum of the different types of providers. There is typically an influx of applications when physicians graduate in a large group.

### **Backlog on Child Abuse and Neglect Checks for Participant Directed Services**

Amanda Stahl, social worker, disability advocate, waiver recipient, stated that she has been working as a social worker and hiring her own staff for 14 years. Since September 2018 she has struggled to get completed Child Abuse and Neglect (CAN) registry checks for potential staff back from CHFS. She is down to only two employees, one of which is her mother. Although she loves her mother, she would prefer her mother not be one of her employees. She has a full time job as a social worker and tries to inspire people to be independent and active. It is important to her to be able to hire her own staff to help her with her every day, personal care matters.

She does not want to hire her personal staff through an agency or go into a nursing home. However, she may be forced to do so if the CAN registry checks are not completed in a timely manner.

Jane Stahl, mother, advocate, stated that Amanda Stahl did receive the criminal background check and an adult abuse registry check back on her potential hire but the CAN registry check that has not been returned is inhibiting her from hiring staff.

Alicia Fuller, Senior Case Manager, Centerstone of Kentucky, stated that the purpose of the Michelle P. Waiver is to provide funding for caregivers to work with participants to help them develop independent living skills. The recipients of the Michelle P. Waiver are not receiving the support they need because of the delay in processing the CAN registry checks. She has a client that has been without services through the Michelle P. Waiver due to the delays in processing the background checks. Per the Michelle P. Waiver regulations, caregivers are unable to work until the results of the CAN registry check are received. The CAN registry check results are taking between 80 and 85 days. Centerstone of Kentucky has 59 outstanding CAN registry checks due for participants of the Michelle P. Waiver. Centerstone of Kentucky has a total of 115 CAN registry checks due over all waivers. On behalf of the waiver participants, Centerstone of Kentucky asks that steps be taken to reduce the processing time so that clients can receive the crucial supports they need daily to live independently.

Jamie Hurt-Mueller, CDO Eligibility Coordinator, Agency on Aging and Independent Living, Bluegrass Area Development District, stated that her agency is having similar waiting periods for CAN registry checks. It is taking an average of 75 days to receive a CAN registry check back when in July it was taking two weeks. On Michelle P. Waiver staff are not allowed to work at all until they have been approved by all registry checks. For the Home and Community Based waiver (HCB) and the Supports for Community Living (SCL) waiver, an employee can work for 30 days but must have all background checks approved to continue as staff. It is a problem for the waiver recipient and the employee. She has clients that are in emergency need of staff but was told by CHFS staff there are hundreds that are in emergency need of approval and her clients could not be found. Waiver participants are being negatively impacted waiting months for a CAN registry check to come back.

Jill Hunter, Senior Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS), stated that DMS is working as a team with the Department for Community Based Services (DCBS) to reduce the backlog of CAN registry checks.

Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, stated that DCBS realized the backlog was problem as a result of Senate



Bill 236 passed in the 2017 Regular Session. All public school personnel are required to have a CAN registry check, unfortunately most schools waited until spring and summer to submit the checks creating a backlog. The CAN registry check is a paper-based, manual process. Unfortunately DCBS has not had the resources to invest in technology for automation of the checks. Since spring DCBS has dedicated staff across the state and pulled in volunteers to conduct the CAN registry checks, despite best efforts DCBS has not met the demand. DCBS is intensifying those efforts with interim staff, additional state staff, as well as more volunteers from within CHFS to help staff the process. The wait time for a CAN registry check is approximately 70-75 days.

DCBA has a project underway that will allow for electronic application and payment but is four to six months out from being implemented. The Kentucky State Police is planning to set up an electronic fingerprinting process. DCBS is partnering with KSP to review how its proposed vendor is working with other states to incorporate the central registry within its process. DCBS has the leadership at the top of the department and cabinet very much vested in short and long term solutions to this problem.

#### **Discussion on Prior Authorization for Medication-Assisted Treatment for Addiction**

Dr. Gil Liu, Medical Director, Department for Medicaid Services, Cabinet for Health and Family Services, stated that the chart he supplied to the committee shows the previous three year annual trends in Medicaid enrollment and statistics regarding Opioid Use Disorder (OUD) trends. The Medicaid expansion population has climbed a small amount but the population with opioid use disorder has climbed dramatically over the same period of time. The expenditures associated with care for those with OUD is growing. In 2019, among the 39,000 Medicaid beneficiaries with OUD, claims suggest that 23,000 have evidence of receiving medication assisted treatment (MAT). There are many concerning harms of OUD, one of those is that a mother with OUD complicates her pregnancy by delivering an infant who experiences neonatal abstinence syndrome (NAS). A relatively small fraction of women who are recognized as having OUD are receiving treatment during pregnancy. In 2018 there were 900 cases of NAS.

A quality indicator when treating someone with OUD when you are including medications is random toxicology screenings. When using MAT, 82 percent of cases have evidence of on-time toxicology screening. All individuals who visit an emergency department for OUD should have a close follow-up visit to bridge the patient into treatment. There are very low rates of follow up within a week. DMS expects to spend around \$15,600 per year on a member with a diagnosis of OUD in contrast to \$3,700 on those without OUD. MAT is the number one evidence based means of reducing deaths from OUD. The MCOs'

rate of prior authorization denial for buprenorphine is 15 percent. Denial of buprenorphine is often for inadequate medical documentation to justify the medical necessity of that treatment.

Dr. Mark Jorrich, MD, Immediate Past President, Kentucky Society of Addiction Medicine, stated that the OUD crisis is not going away. OUD is increasing and people continue to die. The brain disease of OUD with a known biology is best treated with MAT, specifically with buprenorphine, Suboxone, and methadone. OUD is best treated as a chronic medical illness similar to how other chronic medical illnesses are treated. Affordability and accessibility are barriers that prevent patients from entering treatment in a timely manner. Limitations that affect prescribing, dosing, length of treatment, settings for treatment, formulations of the medications, and required associated services should not interfere with the ability to provide office based treatment with buprenorphine.

Amanda Hahn, Peer Support Specialist, ACLU of Kentucky, stated that MAT saves lives and families. The barriers with prior authorizations are keeping people with OUD from getting treatment in a timely manner. She believes the state is moving forward to help Kentuckians.

In response to questions and comments from Representative Moser, Dr. Liu stated that he believes that the emergency provisions that are being put into place by the MCOs will be permanent. Two MCOs have piloted preferred providers arrangements where there is no prior authorization for preferred providers. DMS is also designing a preferred provider arrangement. There continues to be patterns with inappropriate prescribing of antimicrobials and antipsychotic to children. A preferred provider not only dispenses medication but makes behavior health services, counseling, peer support, employment support, and programs to address community factors available to patients with OUD. A preferred provider would have to make a commitment to reporting on the quality of their services.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:35 PM.

### **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the December Meeting**

December 11, 2018

#### **Call to Order and Roll Call**

The December meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 11, 2018, at 1:00 PM, in Room 171 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative David Hale, Co-Chair; Senator Julie Raque Adams, Representatives Mary Lou Marzian

and Tommy Turner.

Guests: John Steffen Registry of Election Finance; Gary Morris, Todd Renner, Department of Revenue; Joseph Bowman, Alan Hurst, Kentucky Retirement Systems; Keith Poynter, Board of Chiropractic Examiners; Tony Cotto, Board of Psychology; Jared Downs, Stacy Grider, Board of Licensure for Occupational Therapy; Steve Beam, Eric Gibson, Gabe Jenkins, Evan Jones, Karen Waldrop, Department of Fish and Wildlife Resources; Melissa Duff, Department for Environmental Protection; Julie Foster, Justice and Public Safety Cabinet; Ann Dangelo, Steve Drake, Department of Transportation; Todd Allen, Christa Hall, Scott U'Sellis, Department of Education; Estee Jackson, Lisa King, Olivia Orrender, Workers' Compensation Funding Commission; Steve Humphress, Marc Manley, Department of Alcoholic Beverage Control; Michael Mullins, Jim Vicini, Department for Natural Resources; Julie Brooks, Jenny Glass, Mike Tuggle, Department for Public Health; Jonathan Scott, Department for Medicaid Services; Laura Begin, Christa Bell, Elizabeth Caywood, Department for Community Based Services.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Tuesday, December 11, 2018, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

DEPARTMENT OF STATE: Kentucky Registry of Election Finance: Electronic Voting Systems

032 KAR 001:030 & E. Election finance statement forms; campaign contributions or expenditures in excess of \$3,000. John Steffen, executive director, represented the registry.

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

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: General Administration

103 KAR 001:040. Waiver of penalties. Gary Morris, executive advisor, and Todd Renner, executive director, represented the department.

In response to a question by Co-Chair Harris, Mr. Morris and Mr. Renner stated that changes to these administrative regulations were for compliance with federal and state legislative updates.

103 KAR 001:130. Taxation of federal and certain nonfederal obligations.

Income Tax; Corporations

103 KAR 016:060. Income classification; apportionable and nonapportionable.

A motion was made and seconded to approve the

following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 016:090. Apportionment; payroll factor.

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

103 KAR 016:230. Intangible expenses, intangible interest expense, and management fees.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) establish a definition for “arm’s length transaction;” and (2) comply with the for-mating requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 016:240. Nexus standard for corporations and pass-through entities.

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

103 KAR 016:290. Apportionment; property factor.

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 Section 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 016:330. Apportionment and allocation; alternative apportionment; separate accounting.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to clarify that this administrative regulation shall apply to taxable years beginning on or after January 1, 2018. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 016:340. Completed contract method.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 5 to comply with the drafting

and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to establish a definition for “gross contract price.” Without objection, and with agreement of the agency, the amendments were approved.

Income Tax; Miscellaneous

103 KAR 019:010. Computation of income; estates and trusts.

In response to a question by Co-Chair Harris, Mr. Renner stated that this administrative regulation had not been amended since 1975.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and 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.

Kentucky Retirement Systems: General Rules

105 KAR 001:145. Voluntary cessation of participation by employers. Joseph Bowman, assistant general counsel, and Alan Hurst, staff attorney, represented the systems.

In response to questions by Co-Chair Harris, Mr. Hurst stated that the employer was responsible for paying fees associated with litigation, which was in accordance with the systems’ broad statutory authority. Mr. Bowman stated that KRS 61.522, Section 9, provided that an employer that voluntarily ceased participation in the systems, or was required to voluntarily cease participation, shall hold the Commonwealth harmless from damages, attorneys’ fees, and costs of legal claims for any cause of action brought.

In response to a question by Senator Raque Adams, Mr. Bowman stated that these requirements were not retroactive.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 4, 8, 9, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

105 KAR 001:147 & E. Involuntary cessation of participating employers.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 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.

BOARDS AND COMMISSIONS: Board of Chiropractic Examiners

201 KAR 021:015. Code of ethical conduct and standards of practice. Keith Poynter, general counsel, represented the board.

201 KAR 021:045. Specialties.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY

paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to: (a) establish examples of specialties certified; and (b) reference the board’s Web site, where a complete listing of approved and certified specialties is maintained. Without objection, and with agreement of the agency, the amendments were approved.

Board of Examiners of Psychology

201 KAR 026:130. Grievances and administrative complaints. Tony Cotto, executive advisor, represented the board.

In response to questions by Co-Chair Harris, Mr. Cotto stated that this administrative regulation, in concert with 201 KAR 26:140, established disciplinary provisions with the intent to encourage use of the KRS Chapter 13B due process requirements. The grievance process was an intermediate step prior to commencing the formal complaint process.

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

201 KAR 026:140. Procedures for disciplinary hearings.

A motion was made and seconded to approve the following amendments: 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 026:171. Requirements for supervision.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 15 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 026:175. Continuing education.

201 KAR 026:200. Education requirements.

201 KAR 026:211. Repeal of 201 KAR 026:210.

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

201 KAR 026:280. Licensed psychological associate: application procedures and temporary license.

In response to a question by Co-Chair Harris, Mr. Cotto stated that requirements pertaining to specific passing scores were deleted and replaced with the general concept of a passing score.

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

Board of Licensure of Occupational Therapy  
201 KAR 028:021. Repeal of 201 KAR 028:020, 201 KAR 028:090, 201 KAR 028:110, 201 KAR 028:180, and 201 KAR 028:210. Jared Downs, counsel, and Stacy Grider, chair, represented the board.

201 KAR 028:060. Licensure, renewals, and requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Sections 1 through 3 to clarify examination requirements; and (3) to amend Section 8 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 028:170. Deep physical agent modalities.

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

301 KAR 002:095. Importation of cervid carcasses and parts. Gabe Jenkins, deer and elk coordinator; Evan Jones, assistant general counsel; and Karen Waldrop, deputy commissioner, represented the department.

In response to questions by Co-Chair Hale regarding concerns from the Kentucky Taxidermist Association, Ms. Waldrop stated that this administrative regulation was necessary to protect Kentucky cervids from Chronic Wasting Disease, which was communicable and caused by an abnormal prion in certain cervid species. Chronic Wasting Disease was a neurological illness, which caused death in any infected cervid. This administrative regulation prohibited bringing into Kentucky from any other state, neurological tissue (brain and spinal cord) from any harvested cervid. Sixteen (16) states had similar prohibitions. Waiting for a state to test positive as a Chronic Wasting Disease state before prohibiting the entrance of harvested cervid neurological tissue, because the testing takes time, could be insufficient for protecting Kentucky. Wildlife officers worked closely with taxidermists and processors to ensure that harvested cervid neurological tissue was not brought into Kentucky. Additionally, wildlife officers watched for harvested cervids brought in by vehicle. Indiana was the only state from which Kentucky authorized importation of live cervids.

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

301 KAR 002:132. Elk hunting seasons, permits, zones, and requirements.

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

to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality: Permits, Registrations, and Prohibitory Rules

401 KAR 052:050. Permit application forms. Melissa Duff, director, represented the division.

In response to a question by Co-Chair Harris, Ms. Duff stated that these administrative regulations did not lessen the stringency of requirements in terms of source registration. The amendments clarified if a permit or a registration was required.

401 KAR 052:070. Registration of air contaminant sources.

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.

JUSTICE AND PUBLIC SAFETY CABINET: Special Local Peace Officers

500 KAR 003:020. Filing and processing SLPO commissions. Julie Foster, staff attorney, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Foster stated that special local peace officers were employed at facilities such as the Ark Encounter, churches, and synagogues.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4, 6, and 8 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Highways: Division of Planning: Traffic

603 KAR 005:070. Motor vehicle dimension limits. Ann D'Angelo, assistant general counsel, and Steven Drake, engineering technician III, represented the division.

In response to a question by Co-Chair Harris, Ms. D'Angelo stated that the amendments to this administrative regulation were for compliance with federal updates.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for "length exclusion safety device;" and (2) to amend Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Academic Standards

704 KAR 008:010. Kentucky Academic Standards for Computer Science Elective. Todd Allen, deputy general counsel; Christa Hall, director, Division of Program Standards; and Scott U'Sellis, academic program manager, represented the board.

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

704 KAR 008:030. Kentucky Academic Standards for Health.

704 KAR 008:050. Kentucky Academic Standards for Physical Education.

LABOR CABINET: Workers' Compensation Funding Commission: Collective Bargaining and Arbitration

803 KAR 030:010. Special fund assessments. Estee Jackson, administrative services officer; Lisa King, director of auditing; and Olivia Orrender, audit review manager, represented the commission.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3, 5 through 7, and 9 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 030:021. Repeal of 803 KAR 030:020.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 004:011. Repeal of 804 KAR 004:010. Steve Humphress, general counsel, and Marc Manley, counsel, represented the department.

Mr. Humphress thanked Co-Chair Harris for his service and leadership during his tenure with the subcommittee.

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

805 KAR 003:100. Equipment use and operation. Michael Mullins, regulation coordinator, and Jim Vicini, director, represented the division.

In response to a question by Co-Chair Harris, Mr. Vicini stated that the effective date for these requirements was being extended because these requirements were more stringent than the federal program and the industry was unable at this time to comply. The extension would give the division more time to work with stakeholders to develop feasibility.

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.

CABINET FOR HEALTH AND FAMILY SERVICES: Department of Public Health: Division of Administration and Financial Management: Local Health Departments

902 KAR 008:165. Local health department accounting and auditing requirements. Julie Brooks, regulation coordinator; Jenny Glass, branch manager; and Mike Tuggle, assistant director for administration



and financial management, represented the division.

902 KAR 008:170. Local health department financial management requirements.

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

Department for Medicaid Services: Division of Program Integrity: Medicaid Services

907 KAR 001:005. Nonduplication of payments. Jonathan Scott, regulatory advisor, represented the department.

907 KAR 001:075. Hearings and appeals for individuals with intellectual disability.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs 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 Protection and Permanency: Child Welfare

922 KAR 001:060. Federal Title IV-E adoption assistance. Laura Begin, regulation coordinator; Christa Bell, director; and Elizabeth Caywood, deputy commissioner, represented the division.

922 KAR 001:360 & E. Private child care placement, levels of care, and payment.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 5, 9 through 13, and 16 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Staff read a resolution adjourning the subcommittee in honor of Co-Chair Harris upon his departure from the subcommittee. A motion was made and seconded to approve the resolution. Without objection, the resolution was approved.

Co-Chair Harris stated that serving on this subcommittee had given him the best education of any committee regarding the various functions of state government. His goal had been to work with governmental agencies and stakeholders to develop administrative regulations that best served communities for the benefit of all Kentuckians. He thanked subcommittee members and staff.

The following administrative regulations were deferred or removed from the December 11, 2018, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:370. Pharmacy services in long-term care facility (LTCF).

Board of Social Work

201 KAR 023:150. Complaint procedure, disciplinary action, and reconsideration.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Hazardous Waste

401 KAR 039:060. General requirements.

401 KAR 039:080. Hazardous waste handlers.

401 KAR 039:090. Hazardous waste permit program.

Enforcement and Compliance Monitoring

401 KAR 040:051. Repeal of 401 KAR 040:050.

Underground Storage Tanks

401 KAR 042:005. Definitions for 401 KAR Chapter 042.

401 KAR 042:020. UST system requirements, notification, registration, and annual fees.

401 KAR 042:060. UST system release and corrective action requirements.

401 KAR 042:250. Petroleum Storage Tank Environmental Assurance Fund reimbursement.

401 KAR 042:330. Small Owners Tank Removal Account.

401 KAR 042:341. Repeal of 401 KAR 042:011, 042:030, 042:040, 042:045, 042:050, 042:070, 042:080, 042:090, 042:095, 042:200, 042:290, 042:300, 042:316, 042:320, 042:335, and 042:340.

JUSTICE AND PUBLIC SAFETY CABINET: Special Law Enforcement Officers

500 KAR 002:030. Special law enforcement officers: evaluation examination.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 002:030 & E. Ignition interlock.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 005:150. Nontraditional Instruction Program.

Office of Learning Programs Development: Office of Instruction

704 KAR 003:292. Education of migratory children.

704 KAR 003:303. Required academic standards.

704 KAR 003:305. Minimum requirements for high school graduation.

704 KAR 003:365. Complaint procedures for programs under the Elementary and Secondary Education act of 1965.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Academic Standards

704 KAR 008:020. Kentucky Academic Standards for Reading and Writing.

704 KAR 008:040. Kentucky Academic Standards for Mathematics.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 002:092. Disclosure of local government taxes and collection fee.

806 KAR 002:100. Disclosure of insurance premium surcharge.

806 KAR 002:121. Repeal of 806 KAR 002:120 and 806 KAR 002:150.

Kinds of Insurance; Limits of Risk; Reinsurance  
806 KAR 005:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020.

Real Estate Authority: Board of Home Inspectors  
815 KAR 006:001. Definitions for 815 KAR Chapter 6.

815 KAR 006:010. Licensing requirements.

815 KAR 006:030. Standards of conduct, complaints, and discipline.

815 KAR 006:040. Education requirements and providers.

815 KAR 006:101. Repeal of 815 KAR 006:020, 815 KAR 006:080, 815 KAR 006:090, and 815 KAR 006:100.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Long-term Care

900 KAR 002:021. Repeal of 900 KAR 002:020.

900 KAR 002:040. Citations and violations; criteria and specific acts.

Office of Inspector General: Division of Certificate of Need: Certificate of Need

900 KAR 006:075 & E. Certificate of need nonsubstantive review.

Department for Public Health: Food and Cosmetics

902 KAR 045:005. Kentucky food code.

902 KAR 045:007. Repeal of 902 KAR 045:006 and 902 KAR 045:140.

902 KAR 045:090. Home-based processors and farmers market home-based microprocessors.

Department for Medicaid Services: Division of Policy and Operations: Occupational, Physical, and Speech Therapy

907 KAR 008:040. Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities.

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

922 KAR 001:010. Independent non-relative adoptions.

922 KAR 001:050. State funded adoption assistance.

922 KAR 001:100 & E. Public agency adoptions.

922 KAR 001:530. Post-adoption placement stabilization services.

The subcommittee adjourned at 2 p.m. The next meeting of the subcommittee is tentatively scheduled for January 9, 2019, at 10 a.m.

## **PUBLIC PENSIONS WORKING GROUP**

### **Minutes of the 1st Meeting of the 2019 Interim** January 15, 2019

#### **Call to Order and Roll Call**

The 1st meeting of the Public Pensions Working Group was held on Tuesday, January 15, 2019, at 9:30 AM, in Room 154 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Morgan McGarvey, Robert Stivers II, Damon Thayer, and Johnny Ray Turner; Representatives R. Travis Brenda, Jim DuPlessis, Derrick Graham, Scott Lewis, Diane St. Onge, and Buddy Wheatley.

Guests: Brad Gross, Bo Cracraft, Zach Ireland, Chuck Truesdell, and Seth Dawson LRC Staff.

LRC Staff: Brad Gross, Bo Cracraft, Jennifer Hans, and Angela Rhodes

#### **State Administered Retirement Systems Basic Overview**

LRC Staff presented a broad overview of state administered systems. The topics covered a review of system administration, summaries of recent studies and past reforms, actuarial statistics, investments, and cash flow characteristics. In addition, several additional questions were asked and members of the working group discussed future topics and presentations.

Senator Schroder noted that all materials from the meeting and future meetings would be made available online from the LRC website. He also stated that anyone wanting to provide feedback or suggestions could do so by sending an email to [Public.Pensions@lrc.ky.gov](mailto:Public.Pensions@lrc.ky.gov).

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Thursday, January 17, 2019.

## **PUBLIC PENSIONS WORKING GROUP**

### **Minutes of the 2nd Meeting of the 2019 Interim** January 17, 2019

#### **Call to Order and Roll Call**

The 2nd meeting of the Public Pensions Working Group was held on Thursday, January 17, 2019, at 9:30 AM, in Room 154 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Morgan McGarvey, Robert Stivers II, Damon Thayer, and Johnny Ray Turner; Representatives R. Travis Brenda,

Derrick Graham, Scott Lewis, Diane St. Onge, and Buddy Wheatley.

Guests: Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement Systems.

LRC Staff: Brad Gross, Bo Cracraft, and Angela Rhodes.

#### **Approval of Minutes**

Senator McDaniel moved that the minutes of the January 15, 2019 meeting be approved. Senator Thayer seconded the motion, and the minutes were approved without objection.

#### **Teachers' Retirement System Overview**

Beau Barnes presented a broad overview of the Teachers' Retirement System. The topics covered a review of the system's history dating back to 1935, a recap of the unfunded liability, current and future costs for pensions, various funds, medical insurance, years of service multipliers, and annualized gross benefits.

Senator Schroder noted that all materials from the meeting and future meetings would be made available online from the LRC website. He also stated that anyone wanting to provide feedback or suggestions could do so by sending an email to [Public.Pensions@lrc.ky.gov](mailto:Public.Pensions@lrc.ky.gov).

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Tuesday, January 22, 2019.

## **PUBLIC PENSIONS WORKING GROUP**

### **Minutes of the 3rd Meeting of the 2019 Interim** January 22, 2019

#### **Call to Order and Roll Call**

The 3rd meeting of the Public Pensions Working Group was held on Tuesday, January 22, 2019, at 9:30 AM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Morgan McGarvey, Robert Stivers II, Damon Thayer, and Johnny Ray Turner; Representatives R. Travis Brenda, Derrick Graham, Scott Lewis, Diane St. Onge, and Buddy Wheatley.

Guests: Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement Systems.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

#### **Approval of Minutes**

Senator Stivers moved that the minutes of the January 17, 2019 meeting be approved. Senator Thayer seconded the motion, and the minutes were

approved without objection.

#### **Teachers' Retirement System Overview (Continued)**

Beau Barnes responded to several questions received in response to his January 17, 2019 presentation before finishing an overview of the Teachers' Retirement System. The topics covered included efforts to control cost and increase the average retirement age, a review of the inviolable contract and benefits not covered, a discussion of social security cost compared to TRS, and a review of 2018 pension legislation.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Thursday, January 24, 2019.

## **PUBLIC PENSIONS WORKING GROUP**

### **Minutes of the 4th Meeting of the 2019 Interim** January 24, 2019

#### **Call to Order and Roll Call**

The 4th meeting of the Public Pensions Working Group was held on Thursday, January 24, 2019, at 9:30 AM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Morgan McGarvey, Robert Stivers II, Damon Thayer, and Johnny Ray Turner; Representatives R. Travis Brenda, Derrick Graham, Scott Lewis, Diane St. Onge, and Buddy Wheatley.

Guests: Stephanie Winkler, President, Kentucky Educational Association; Tim Abrams, Executive Director, Kentucky Retired Teacher Association; Eric Kennedy, Government Relations Director, Kentucky School Boards Association; Dr. Tom Shelton, Executive Director, Kentucky Association of School Superintendents; Wayne Young, Executive Director/General Counsel, Kentucky Association of School Administrators; and Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement Systems.

LRC Staff: Brad Gross, Bo Cracraft, and Angela Rhodes.

#### **Approval of Minutes**

Senator Thayer moved that the minutes of the January 22, 2019 meeting be approved. The motion was seconded, and the minutes were approved without objection.

#### **Comments by Education Related Organizations and Teachers' Retirement System**

Stephanie Winkler spoke on behalf of Kentucky Education Association, Kentucky Retired Teacher Association, Kentucky School Boards Association, Kentucky Association of School Superintendents, and Kentucky Association of School Administrators

collectively. Her testimony focused on six core beliefs of the group, which included: (1) a belief that the Teachers' Retirement System (TRS) should continue to provide defined benefit pensions for all current and future employees; (2) a belief the legislature should continue to provide full funding of requests made by TRS and calculated by actuaries; (3) a belief in the shared responsibility plan of 2010, and the process that help achieve it, which addressed the costs of post 65 retiree health care; (4) a belief in the intent and purpose of the inviolable contract; (5) a belief that health insurance costs for public employee retirees should be a priority; and (6) a belief that the County Employees Retirement System should be separated from Kentucky Retirement Systems and become a standalone system. Ms. Winkler added that the groups were also not willing to negotiate on a defined benefit plan, noting that teachers do not receive social security. Each of the remaining employee or employer groups added comments and recommendations, which included the topics of social security, the current shortage of teachers and the need to better attract and retain teachers, along with the shared responsibility plan. In addition, several additional questions were asked and discussed.

Beau Barnes returned to discuss and provide additional comments addressing questions received during the January 22, 2019 meeting with regards to the historical sources of the unfunded liability.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Tuesday, January 29, 2019.

## **PUBLIC PENSIONS WORKING GROUP**

### **Minutes of the 5th Meeting of the 2019 Interim**

January 29, 2019

#### **Call to Order and Roll Call**

The 5th meeting of the Public Pensions Working Group was held on Tuesday, January 29, 2019, at 9:30 AM, in Room 154 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Morgan McGarvey, Robert Stivers II, Damon Thayer, and Johnny Ray Turner; Representatives R. Travis Brenda, Jim DuPlessis, Derrick Graham, Scott Lewis, and Buddy Wheatley.

Guests: David Eager, Executive Director, and Erin Surratt, Executive Director, Office of Benefits, Kentucky Retirement Systems.

LRC Staff: Brad Gross, Bo Cracraft, Jennifer Hans, and Angela Rhodes

#### **Approval of Minutes**

Senator McDaniel moved that the minutes of the January 24, 2019 meeting be approved. Senator Thayer seconded the motion, and the minutes were approved without objection.

#### **Kentucky Retirement Systems Overview**

David Eager and Erin Surratt presented a broad overview of the Kentucky Retirement Systems (KRS). The topics covered included governance, employer classifications, and a summary of KRS benefits, which included a review of each benefit tier, membership, eligibility requirements, contribution rates, and retiree health benefit calculations. Mr. Eager also discussed the actuarial valuation results and recent assumption changes for each of the plans. In addition, there was a period of discussion.

Senator Schroder noted that all materials from the meeting and future meetings would be made available online from the LRC website. He also stated that anyone wanting to provide feedback or suggestions could do so by sending an email to [Public.Pensions@lrc.ky.gov](mailto:Public.Pensions@lrc.ky.gov).

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Thursday, January 31, 2019.

## **SCHOOL SAFETY WORKING GROUP**

### **Minutes of the 8th Meeting of the 2018 Interim**

December 11, 2018

#### **Call to Order and Roll Call**

The 8th meeting of the School Safety Working Group was held on Tuesday, December 11, 2018, at 1:00 PM, at the Mountain Arts Center in Prestonsburg, Kentucky. Senator Max Wise, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Senator Johnny Ray Turner; Representatives John Blanton and Brandon Reed; Jon Akers, Joe Bargione, Jerry Humble, Nasim Mohammadzadeh, Alex Payne, Andy Smith, and Henry Webb.

LRC Staff: Yvette Perry, Joshua Collins, and Chris White.

Senator Turner and Representative Blanton thanked the committee for hosting a meeting in Prestonsburg and recognized Mayor Stapleton, other local officials, and various students, teachers, and administrators in the audience. Clayton Case, Executive Director, Mountain Arts Center (MAC), welcomed everyone.

The minutes of the November 19, 2018 meeting were reviewed by committee members.

#### **Kentucky Office of Homeland Security**

Mr. John Holiday, Executive Director, Kentucky Office of Homeland Security (KOHS) and Mike Sunseri, Deputy Executive Director and 911 Service Administrator, KOHS, expressed appreciation for past, present, and future work by Jon Akers and the

Kentucky Center for School Safety (KCSS).

KOHS is the strategic center for the accumulation and dissemination of critical information, providing relevant and timely intelligence, executive advice and resource allocation for the preparation, prevention, response, and recovery of all hazards or incidents affecting the state's safety, security, and health. KOHS's objectives are to increase capabilities to maximize public safety and security; to provide constant, strategic, and precise engagement with public and private sector partners to improve crisis planning, mitigation, response, and recovery; and to be a resource for Kentucky communities and first responders.

Mr. Holiday initiated a collaboration between KOHS, the School Safety Working Group (SSWG), and LRC, offering expert advice to ensure carefully planned and sustainable decisions regarding student safety. KOHS endorses legislation to reenergize Kentucky's Geographic Information System (GIS) efforts and include school resource officers (SROs) protection of personal and identifiable information.

Mr. Holiday said the Kentucky Intelligence Fusion Center (KIFC), networked to 78 fusion centers throughout the nation, can provide relevant and timely information to first responders in every regional, national, or global incident or emergency within hours or minutes. Through analysis and critical thinking, focus is placed on seven primary portfolios: international terrorism, domestic terrorism, cyber threat analysis, organized crime, real-time social media analysis, geospatial and GIS analysis, and critical infrastructure sectors. KOHS prioritizes local, national, and global threats and hazards based on incident activity, probability, and methods of critical thinking. The KOHS, the only state agency granted access to federal classified information, partner and engage with government and private sector agencies to produce and disseminate timely, accurate, usable, and relevant intelligence information when the state's safety and well-being is directly or indirectly threatened.

Mr. Sunseri oversees the Kentucky 911 Services Board, providing daily oversight and accountability over the collection and disbursement of more than \$30 million of 911 fees collected from wireless subscribers and providers. KOHS's top priority is to guide Kentucky's 115 certified call centers, or public safety answering points (PSAPs), to adopt Next Generation 911 technology systems.

Through the use of data and intelligence information in anticipation and prevention of terrorism and organized crime activity, KOHS advises and assists in response, litigation, and recovery of all natural or man-made duress or hazards. Efforts over the past three years have dramatically increased partner and mission effectiveness. KOHS has produced and disseminated hundreds of intelligence products, enhancing investigations and filling information gaps for state and federal law enforcement partners; responded to hundreds of requests for information



from Kentucky law enforcement agencies, federal law enforcement agencies, other fusion centers, and law enforcement from other states; received and processed hundreds of Suspicious Activity Reports that met National Security Information criteria for entry into FBI eGuardian; conducted active aggressor/shooter awareness training for more than 7,500 state government and private sectors employees and created a training program for individuals to conduct training for their colleagues; trained over 600 new Intelligence Liaison Officers (ILOs) from both public and private sectors; produced threat and hazard briefings as needed; supported federal, state and local partners during numerous special events; and facilitated the completions of the Kentucky Annual Threat and Hazard Identification Risk Assessment and State Preparedness Report.

Through identifying road blocks and challenges prior to actual events or incidences, KOHS's effort has decreased response times dramatically. Communities, facilities, organizations, and the general public receive resources through the Law Enforcement Protection Program and the Homeland Security Grant Program. First responders are provided with protective gear, body armor, tasers, ammunition, weapons, armor for canines, and other equipment. KOHS engages with local, state, federal, public, and private-sector partners to facilitate information sharing and to help communities and organizations protect themselves.

Kentucky school safety is a complex task given its unique school system structure and challenging budget issues. Government and law enforcement officials continue to evaluate security measures and develop technologies and strategies.

An analysis of safe school initiatives by the United States Secret Service (USSS) and the U.S. Department of Education (USDOE) identified key findings used by law enforcement to formulate preventive strategies. Identified as pathway steps to violence are grievance, ideation, research, preparation, and breach. The last step, the planned attack, absorbs astronomical resources due to response and recovery. KOHS's goal is to effectively engage with partners to eliminate the grievance step through constant assessment of community culture, organizational culture, and facility security.

USSS and USDOE analysis discovered that incidents of targeted violence at schools were rarely impulsive acts and others knew of the plan prior to most incidents. Mr. Holiday said 99 percent of shooters use social media as an outlet for Active Shooter Intent or Bragging (ASIB). He also said lack of reporting social media threats and absence of behavioral health intervention contribute to preventable attacks. Although today's children are less rebellious, more tolerant, and physically safer, many students are mentally vulnerable and unprepared for adulthood.

Mr. Holiday said collaboration and alignment of effort with stakeholders is essential in protecting students, teachers, and staff. Fundamental elements

relate to standardization mechanisms, real-time systems, 24-hour-per-day threat assessment capabilities, and human intervention. Proposals to develop best practices with social media threat detection and triage must have consistent intelligence planning, data collection processing, analytical production, dissemination, and feedback groups. Although historical data can always be recovered, the need for current, real-time information is critical.

A positive correlation between social media growth and manic behavior has been validated. Regardless of how insignificant information may seem, suspicious activity or threats are powerful threat-detection tools. Social media platforms provide an opportunity to identify critical threats and implement intervention strategies but is often exploited by criminals to engage in illegal activities or spread fear.

KOHS's Safe Schools Resources Center (SSRC) envisions a coordinated training effort geared toward school safety by subject-specific intelligence analyst training, experienced mental health providers, and law enforcement emergency services. Federal agencies understand the importance of in-depth planning for complex, coordinated surprise attacks and the need to increase real-time, around-the-clock SSRCs to combat the rising trend of social media threats. Professional tools and tactics must be implemented immediately rather than reacting to the aftermath of attacks.

In response to a question from Major General Humble, Mr. Holiday said SROs are not currently enrolled in the ILO program. Before his tenure, Mr. Holiday said the program was open to law enforcement and emergency services only but now includes the private sector and currently, over 600 ILOs are feeding information to KOHS. Plans to implement ILO programs for SROs, school administrators, and principals are being established. Mr. Holiday suggested visiting KOHS's website at [kentuckyhomelandsecurity.com](http://kentuckyhomelandsecurity.com), calling 1.866.393.6659 (EYE ON KY), or following their social media accounts.

#### **KY PBIS Network**

Presenting were Ms. Jo Craven, Director, and Misty Hedge, Area Coordinator, Kentucky Center for Instructional Discipline (KCID), Positive Behavior Interventions and Support (PBIS).

PBIS is a systemic approach to establish social culture and the individualized behavioral supports necessary for social and academic success for all students. Evidence-based features of PBIS include preventing behaviors, defining and teaching positive social expectations, acknowledging positive behavior, implementing consistent consequences for problematic behavior, collecting and using on-going data in decision making, creating a continuum of intensive individual interventions, and establishing administrative leadership and team-based implementation.

Ms. Craven gave a brief history of the

establishment of PBIS in 1980 and modifications made over time through federal grants. In 2003, KCID was established, the first PBIS schools were piloted, and in 2005 the first group in Kentucky consisted of 13 schools. The network now includes 622 schools in 94 districts. Ms. Hedge said Floyd and Perry Counties have 100 percent PBIS participation while Pikeville Independent, Lawrence, Martin, and Pike Counties have at least one school with PBIS services.

In response to a question by Senator Wise, Ms. Craven said all districts are offered services but the PBIS program is voluntary. Information regarding districts receiving support through local cooperatives is unknown.

The Multi-Tiered System of Support (MTSS) is a Response to Intervention (RTI) plan including academic and behavioral systems. Tier one, universal intervention, is a preventive and proactive level and encompasses 80 to 90 percent of all students. Tier two, secondary intervention, includes five to 15 percent of at-risk students who struggle with academic or behavioral issues, or both. Tier three, tertiary intervention, is assessment based, highly intensive, and includes one to five percent of individual students. Students are placed in tiers two and three only if they don't reach the fidelity level in tier one. PBIS is funded through grants and all services are free. Once needs for social, emotional, or mental health needs are identified, schools use MTSS, to assist students.

PBIS places emphasis on establishing universal behavior and academic supports with fidelity. PBIS fidelity schools consistently report one-third fewer out-of-school suspensions compared to all schools. Fidelity-level data is based on aggressive assessment indicators and documentation is verified. Fidelity-level schools reduce the number of students requiring intensive intervention, reduce the intensity of at-risk behaviors, provide a means for need-based allocation of resources, and lessen demands on limited schools or districts. Academic instruction is greatly increased as student social behavior improves. Ms. Craven said a child is taught how to read, swim, multiply, or drive and believes behavioral expectations must be measured as an academic area instead of continual punishment.

Responding to a question from Senator Wise, Ms. Craven said requests for PBIS trainings have increased between 13 and 17 percent each year although some were a result of changes in school leadership.

In response to a question from Dr. Bargione, Ms. Craven said districts may request district-wide implementation or individual school implementation from KYCID. Schools with district-wide implementation are more successful with the creation of a district leadership team. However, single schools are not turned away. On follow-up questions, Ms. Craven said full implementation of the program takes three to five years in grade schools and five to seven years for middle and high schools. She and Ms. Hedges agree leadership changes and turnover are

barriers in districts implementing PBIS. Ms. Cravens said sustainability training requires much less time than first-time training.

Mr. Akers said the Office of Civil Rights endorses PBIS nationwide as the best program addressing student intervention. He said predictability and prevention has a major impact on civility, addressing bullying, and connectivity with staff.

Mr. Smith, who implemented the program a year ago in Woodford County, said the key to success is teacher buy-in support. He said student and teacher groups worked independently yet arrived at the same core values and ideas relating to culture and communication regarding discipline and behavior. Consistency, care, community, and meaningful points of contact were common values mentioned. Ms. Craven suggested matching kids with meaningful adults and establishing systems of support.

In response to a question from Dr. Webb, Ms. Craven said KYCID is very willing to partner with school systems and welcomes any opportunities.

#### **Prichard Committee's Student Voice Team**

Representing the Prichard Committee's Student Voice Team (PCSVT) were Ms. Nasim Mohammadzadeh, a junior at Paul Laurence Dunbar High School (PLDHS); Ms. Gabriella Staykova, a sophomore at PLDHS; and Ms. Ashley Barnette, a senior at Lafayette High School (LHS). Members of the PCSVT are a self-selected group of approximately 100 middle, high school, and college students across Kentucky who work to improve public schools.

Ms. Mohammadzadeh said students can and must be partners in finding and implementing solutions for safer schools. Prior to recent tragedies, the PCSVT conducted a school climate survey at three geographically-diverse Kentucky high schools. Of the 1,552 students responding, 47 percent reported they worried about violence at school and 19 percent said the worry occurred frequently.

National and local school safety conversations focus on what to do about weapons, how to "harden the target" or tighten building security, how to arm teachers, and how to reduce access to guns. While mass shootings are on the rise, they are exceedingly rare in schools and have actually decreased over the last few years. In contrast, a Center for Disease Control (CDC) survey indicated that over 20 percent of high school students have been bullied on school property and another 8 percent reported having been in a physical fight while on school premises. Ms. Mohammadzadeh said while these facts do not diminish the horrific experience students, families, and communities endure, the conversation must include school climate and student-teacher relationships. Norms, goals, values, and the nurturing of education will make schools, with students from a wide range of backgrounds, feel safe and welcomed, and enable students to learn.

Ms. Staykova said students can offer real value regarding policy-making about school safety and climate. With recent gun threats and gun confiscations

in Lexington schools, Fayette County passed a school safety tax to mitigate school violence. This will generate over \$13 Million. Dunbar High School is one of the first schools in the state to implement metal detectors, mandatory identification badges, daily bag searches, and an increased presence of school police officers.

Members of Dunbar's SVT created and distributed a survey to students on recent policies and shifts in school climate. With over 600 students responding, 7.1 percent of students said they felt less safe and 19.2 percent reported still feeling unsafe. Over 40 percent of students felt the new procedures were unnecessary for school safety and believe resources would have been better spent on educational supplies or additional mental health professionals. In 6.3 percent of the responses, students used the words *jail* or *prison* to describe the school's atmosphere. Although the feedback does not undermine the decision to install metal detectors, it suggests that adults who are making the decisions might do better in ensuring a smoother implementation by communicating with students.

Ms. Barnette said students from across the state expressed concern that the public could benefit from a broader understanding of school safety by focusing on preventative care. Addressing student marginalization in a timely manner may prevent school violence in the future. She said logic and research show the need to take pre-emptive actions in making our learning communities more welcome and hospitable, rather than reacting after tragedy has struck. Ms. Barnette said of 1,552 students responding to the survey, only 32 percent of students reported feeling valued as members of the school community, 47 percent felt they had a strong relationship with teachers, and 31 percent felt invested in learning. These numbers suggest a negative school climate. There is a direct correlation between a positive school climate, academic achievement, and healthy youth development.

Ms. Barnette said discipline policies should be constructive, rehabilitative, and fairly administered. Schools must use a softened approach by encouraging young people and adults to instill social and emotional support among each other.

Ms. Mohammadzadeh reported 45 states incorporated school climate in their accountability systems and recognized solicitation of consistent student feedback promoted a physically, emotionally, and socially safe feeling among students. She suggested the board consider measurement tools from other states with proven success rates.

In response to a question by Representative Blanton, Ms. Staykova said communication with parents, students, and administration establishing clear guidelines prior to changes being made would be beneficial. She said other essential elements are increasing mental health support and providing an inclusive school environment. On a follow-up question, Ms. Barnette said although some students

are intimidated by uniformed officers, the SLEOs at LHS met with students upon their arrival and explained their roles as improving the academic and emotional school climate.

Responding to a question from Senator Wise, Ms. Mohammadzadeh sees school safety as both a local and state issue and recommended the legislature focus on successful school climates, referring to the effective accomplishments in 45 other states. In a follow-up question, Ms. Barnette said legislation affecting school safety should include both physical and mental sides of the issue. She said schools with higher student-to-counselor ratios will likely negatively affect more at-risk students. Ms. Staykova said as the legislature addresses this state-wide issue, the primary focus should include student interaction with counselors and security. She suggested non-intrusive security may help alleviate stress caused by physically secure methods, such as metal detectors.

Mr. Akers believes metal detectors create an opportunity for teachers to connect and chat with students as they enter school. He strongly encourages the model used in Marshall County.

#### **State Interagency Council's Social and Emotional Task Force Update**

Vestena Robbins, PhD, Executive Advisor, Kentucky Department for Behavioral Health, and Christina Weeter, Director, Division of Student Success, presented the State Interagency Council's (SIAC) Social and Emotional Health Task Force Update (SEHTF).

SIAC, a statutorily-established, multidisciplinary body is responsible for coordinated policy development, comprehensive planning, and collaborative budgeting for service and supports to children and transition-age youth at risk for developmental behavioral health needs and their families. For years, SIAC focused on children with the most serious level of needs until they realized a public health approach would have a greater impact. They unanimously voted to establish the SEHTF, whose nature and scope of work intersects with SSWG strategies.

Social and emotional wellness also impacts criminal justice reform as it relates to the opioid epidemic. The Family First Prevention Services Act will change the approach to child welfare as SIAC now will be able to allocate dollars typically used to prevent out-of-home placement for children to include upstream prevention services.

Dr. Robbins anticipated recommendations from the SEHTF to include promoting social and emotional well-being with all responsible agencies playing a critical role in early childhood development and expanding SIAC to age 25. She said a full set of recommendations will not be available until the completion of the work of the task force. And the remaining meetings will include information gathering and formulating recommendations for presentation to the SIAC by June, 2019. Final recommendations will be available from the SIAC

Administrator, Lea Taylor at [Lea.Taylor@ky.gov](mailto:Lea.Taylor@ky.gov).

In response to a question from Senator Wise, Dr. Robbins is unaware of restrictions in statute preventing a legislative member to be considered as a member of the SEHTF. She said the SEHTF membership mirrors SIAC membership and further conversation may be needed to determine if regulatory changes are needed. Dr. Robbins said SIAC makes annual recommendations to the Governor and LRC before the legislative session and will include policy outcomes from the task force.

#### **Jefferson County School Nurse**

Eva Stone, District Health Coordinator, and Barbara Colgan, School Nurse for Jefferson County Public Schools (JCPS), talked about available federal funding to help increase health services in schools, including school nurses. JCPS has benefitted from various presentations covering sources of strength, trauma, strengthening families, resilience relating to adverse experiences, and the comprehensive approach supporting social and emotional health with community partners.

Ms. Stone identified types of violence in schools as bullying, mental health crises, physical assaults, sexual assaults, student-on-student altercations, student-on-staff altercations, staff-on-student altercations, escalating violence, or violent intruders. She said the school nurse assesses a situation, takes appropriate action, makes necessary referrals, and works with students, families, and school communities to implement a multi-strategy approach to identify purposeful misbehavior. Other behaviors identified as potential issues include sleeping in class, running away, or physical symptoms such as headaches, stomach aches, and frequent trips to the clinic. These symptoms could be effects of trauma or other underlying issues. Other responsibilities of Ms. Colgan are to encourage parent and student engagement; coordinate care for student health needs; participate on school safety and school attendance committees; and facilitate partnerships between schools and healthcare agencies to implement multi-strategy approaches.

Ms. Stone said Seneca High School receives Level 2 support due to challenges within the school. Challenges include free and reduced price lunch eligibility for 75 percent of its students, 78 percent of students are not reading at grade level, 26 percent of students have reported health conditions, and 39 percent of students missed more than seventeen school days during the 2017-18 school year. Ms. Colgan received 1,865 visits to her office to date this year and had over 3,500 student visits last year. Ms. Colgan encourages kids to connect and gain her trust.

In response to a question by Mr. Smith, Ms. Colgan said she may suggest kids talk to the mental health counselor, let the student know about the resource, or ask the student if they want a referral. Ms. Colgan said many kids will consult with her before someone they view with more authority, such as a teacher, principal, or a counselor. The nurse often acts

as an intermediate person students can relate to.

Responding to a question from Ms. Mohammadzadeh, Ms. Colgan said knowing an adult to whom a student can relate affects their mental health. In a follow-up question, she said nurses with different levels of training are needed, full-time school nurses in middle and high schools are essential, and accessing federal funding can help provide services for mental, physical, and social health.

In response to a question from Mr. Akers, Ms. Colgan said student assistance teams currently comprised of a principal, counselor, and teacher should include the school nurse as part of that team.

Responding to a question from Dr. Bargione, Ms. Colgan said communication among school staff can be beneficial in uncovering student issues. Ms. Stone said it is important to provide care coordination among agencies for families.

Senator Wise recapped the committee's travels, the knowledge gained on the topic of school safety, and resources in place. He reminded the committee a task force makes recommendations for legislation while a working group provides gathered information to the legislature throughout the course of the meetings.

Mr. Akers praised the SSWG for taking a measured, comprehensive approach on the important issue of school safety legislation.

There being no further business, the meeting adjourned at 3:30 p.m.

## **PUBLIC PENSIONS WORKING GROUP**

### **Minutes of the 6th Meeting of the 2019 Interim**

January 31, 2019

#### **Call to Order and Roll Call**

The 6th meeting of the Public Pensions Working Group was held on Thursday, January 31, 2019, at 9:30 AM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Morgan McGarvey, Robert Stivers II, Damon Thayer, and Johnny Ray Turner; Representatives R. Travis Brenda, Jim DuPlessis, Derrick Graham, Scott Lewis, Diane St. Onge, and Buddy Wheatley.

Guests: David Eager, Executive Director, and Rich Robben, CFA, Interim Executive Director, Office of Investments, Fixed Income Assets, Kentucky Retirement Systems; and Danny White and Janie Shaw, Gabriel, Roeder, Smith & Company.

LRC Staff: Brad Gross, Bo Cracraft, Jennifer Hans, and Angela Rhodes

#### **Approval of Minutes**

Senator Thayer moved that the minutes of the January 24, 2019 meeting be approved. Representative Lewis seconded the motion, and the minutes were

approved without objection.

## **Kentucky Retirement Systems Overview (Continued)**

David Eager returned to continue an overview of Kentucky Retirement Systems (KRS). The topics included a scenario comparison of benefits across each benefit tiers, a discussion of each plans unfunded liability, as well as issues KRS faces going forward.

Danny White and Janie Shaw presented an overview of actuarial practices and trends in the investment return and mortality assumptions. The topics covered included a review of the purpose of actuarial valuations and a funding policy, actuarial standards of practice followed when selecting assumptions, as well as considerations that should be considered such as time horizon, cash flow, and funding.

Mr. Eager was joined by Rich Robbin, who provided a short review of KRS' investment portfolios, covering asset allocation, performance, and transparency initiatives as a result of Senate Bill 2.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Tuesday, February 5, 2019.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes**

January 15, 2019

#### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee was held on Tuesday, January 15, 2019, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Girdler, Presiding, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Julian M. Carroll, Rick Girdler, Christian McDaniel, and Robby Mills; Representatives, Steve Sheldon, Maria Sorolis, and Walker Thomas.

Guests: Scott Aubrey, Director, Division of Real Property, Department for Facilities and Support; Donna McNeil, Executive Director, Kentucky Infrastructure Authority; Brad Good, Controller, Louisville and Jefferson County Metropolitan Sewer District; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

#### **Election of Co-Chairs**

Pursuant to KRS 45.790(1), there was the election of Senate and House committee co-chairs, filling the remaining terms of the prior committee co-chairs.

Senator Mills nominated Senator Girdler for the position of Senate co-chair. The motion was seconded by Senator McDaniel. A motion was made by Senator Carroll that nominations cease and that Senator



Girdler be elected Senate co-chair by acclamation. The motion was seconded by Senator McDaniel and approved by voice vote.

Representative Sheldon nominated Representative Thomas for the position of House co-chair. The motion was seconded by Representative Thomas. A motion was made by Representative Sheldon that nominations cease and that Representative Thomas be elected by acclamation. The motion was seconded by Representative Thomas and approved by voice vote.

#### **Approval of Minutes (November 20, 2018)**

A motion was made by Senator Carroll to approve the minutes of the November 20, 2018 meeting. The motion was seconded by Representative Thomas and approved by voice vote.

#### **Correspondence and Information Items**

Ms. Halloran reported correspondence and information items. Regarding the cancellation of the December 18, 2019 meeting, the Secretary of the Finance and Administration Cabinet deferred all items requiring committee action with the exception of the University of Kentucky's current refunding of its 2009 Series A General Receipts bonds for a projected net present value savings of just over \$800,000 (5.47 percent). The bond sale was scheduled for January 23, 2019. The Cabinet also reported a \$1.3 million allocation from the State Fair Board's bond-funded maintenance pool to update areas in the South Wing of the Kentucky Exposition Center. Committee action was not required.

The Finance and Administration Cabinet reported a notice of advertisement for Cabinet for Health and Family Services replacement space in Shepherdsville.

The University of Louisville's Research Foundation reported the purchase of a cytometer for cancer research.

The Kentucky Interlocal School Transportation Association (KISTA) plans to issue \$16.955 million of Equipment Lease Certificates of Participation on behalf of 56 school districts to purchase 159 school buses. Harlan County, Elliott County, and Erlanger-Elsmere Independent School Districts plan to issue bonds for new projects. No tax increases were necessary to finance the purchases or projects.

The Administrative Office of the Courts, the Finance and Administration Cabinet, the Commonwealth Office of Technology, and postsecondary institutions managing their own capital construction programs pursuant to KRS 164A.580 submitted their quarterly capital projects status reports.

#### **Lease Report from the Finance and Administration Cabinet**

Scott Aubrey submitted a lease modification for the Transportation Cabinet's salt storage space in Jefferson County, reducing the square footage by 50,280 square feet for a total of 151,145 square feet and decreasing the annual rent to \$303,019.16. The stored salt is for treating roads during inclement

weather.

A motion was made by Senator Carroll to approve the lease modification, seconded by Representative Thomas, and approved by unanimous roll call vote.

Mr. Aubrey next submitted a lease renewal under the same terms and conditions for the Cabinet for Health and Family Services' space in Clark County, \$10 per square foot for 10,946 square feet, through June 30, 2020.

A motion was made by Representative Thomas to approve the lease renewal, seconded by Senator Carroll, and approved by unanimous roll call vote.

#### **Report from the Office of Financial Management**

##### **Kentucky Infrastructure Authority**

Ms. McNeil gave an overview of the Kentucky Infrastructure Authority (KIA). KIA, managed by an 11 member board, provides loans to governmental agencies for construction and acquisition of infrastructure projects. The types of infrastructure projects that can be funded through KIA include wastewater, drinking water, solid waste, dams, storm water control and treatment, gas or electric utilities, broadband deployment, or any other public utility or public service project. As of the first of January, KIA manages over 600 loans for 238 borrowers from four different loan programs.

A motion was made by Senator Carroll to roll the two Fund A (Federally Assisted Wastewater/Clean Water State Revolving Fund Loan Program) loan requests from the Louisville and Jefferson County Metropolitan Sewer District (MSD) into one roll call vote, seconded by Representative Thomas, and approved by voice vote.

Ms. McNeil submitted various loan requests. The first were two Fund A loans for MSD, with a twenty year term and two percent interest rate. MSD requested a \$3.87 million Fund A loan for a [Nightingale I&I Elimination] project to reduce infiltration and inflow in the collection system, including rehabilitation of approximately 47,000 linear feet of sewer lines with cured-in-place pipe and inspections of more than 60,000 feet of linear sewer pipes. MSD is under a consent decree to eliminate sewer overflows.

MSD also requested a \$22 million Fund A loan to rehabilitate and expand, from 6 million gallons per day (MGD) to 9 MGD during dry weather and up to 24 MGD with wet weather flow, the Hite Creek Water Quality Treatment Center. The project also will eliminate sanitary sewer overflows upstream of the facility and allow for future growth. The current sewer rate for 4,000 gallons is \$45.82, effective since August 1, 2018.

In response to queries from Senator Carroll, Mr. Good said MSD had liability insurance coverage through the Louisville Area General Government Insurance Trust and two excess liability policies through Safety National and Gemini Insurance.

In response to queries from Senator McDaniel,

Mr. Good said that it was too soon to ascertain the impact on insurance rates due to the December 24, 2018 fatal accident involving a MSD employee and a Louisville Metro Police Department officer. Ms. McNeil said that KIA had did not have concerns with respect to debt service coverage if insurance rates did increase.

A motion was made by Senator Carroll to approve the two Fund A loans to MSD, seconded by Representative Thomas, and approved by unanimous roll call vote.

A motion was made by Representative Carroll to roll the remaining three Fund A loan requests from the Farmdale Sanitation District (Franklin County) (increase), City of Corbin f/b/o Corbin Utilities Commission (Knox County), and Western Mason Sanitation District (Mason County) into one roll call vote, seconded by Senator Mills, and approved by voice vote.

The Farmdale Sanitation District requested a \$21,753 Fund A loan increase, resulting in a total loan amount of \$321,753, of which \$305,665 (95 percent) will be allocated as a principal forgiveness subsidy. The increase will address an impending structural failure at the Coolbrook package wastewater treatment plant. The original [Ridgelea Investments Inc. Package Treatment Plant Abandonment] project was based upon Farmdale's acquisition of three, with 200 customers, rather than seven, with over a thousand customers, wastewater package treatment plants. The district's proposed sewer rate for 4,000 gallons, pending board approval, is \$45.00, effective July 1, 2019. The term is one year at 1.75 percent.

The City of Corbin f/b/o Corbin Utilities Commission requested a \$1,262,600 Fund A loan. The [Master Street Sewer Main Upgrade] project will construct 3,000 linear feet of 15 inch gravity relief sewer in downtown Corbin to address sanitary sewer overflow. The utility is not under a consent decree, an agreed order, or any other type of enforcement action, but is taking a proactive stance in moving forward with the project. The current sewer rate for 4,000 gallons, effective since February 1, 2018, is \$21.72 inside the city and \$34.28 outside of the city. The term is 20 years at .50 percent.

The Western Mason Sanitation District requested a \$100,000 Fund A loan, of which 95 percent will be allocated as a principal forgiveness subsidy. The [Pinewood Subdivision Sewer] project will construct 566 linear feet of 8 inch sewer pipe to eliminate a wastewater treatment package plant serving 75 homes in the Pinewood subdivision. The Division of Water (DOW) issued a notice of violation to the subdivision in 2016. Flow from this subdivision will be directed and treated by the City of Maysville. The current sewer rate for 4,000 gallons, effective since January 1, 2016, is \$60.13. The term is one year at 2 percent.

A motion was made by Senator Mills to approve the three Fund A loans to the Farmdale Sanitation District (increase), City of Corbin f/b/o Corbin

Utilities Commission, and Western Mason Sanitation District, seconded by Senator Carroll and approved by unanimous roll call vote.

A motion was made by Senator Carroll to roll the Fund B (Infrastructure Revolving Loan Program) and Fund C (Governmental Agencies Program) loan requests from the Warren County Water District into one roll call vote, seconded by Representative Thomas, and approved by voice vote.

The Warren County Water District requested a \$2 million Fund B loan. The [Plum Springs Area Sewer Rehab and Replacement] project is to install approximately 34,500 linear feet of cured-in-place pipe gravity sewer line and will replace lines from the 1960s that are starting to experience failures. The term is 20 years at 2 percent.

The Warren County Water District also requested a \$2 million Fund C loan. The [Morgantown Road Area Improvements] project is a 250,000 gallon elevated storage tank to replace a 100,000 gallon storage tank, a new pump station, and associated line work. The drinking water rate for 4,000 gallons, effective since January 1, 2017, is \$19.38 and the proposed sewer rate for 4,000 gallons is \$20.87. The term is 20 years at 3 percent.

A motion was made by Senator Carroll to approve the Fund B and Fund C loans to the Warren County Water District, seconded by Senator Mills, and approved by unanimous roll call vote.

A motion was made by Senator Carroll to roll the three Fund F (Drinking Water State Revolving Fund Loan Program) loan requests from the Cities of Lancaster (Garrard County), Paintsville f/b/o Paintsville Utilities Commission (Johnson County), and Jamestown (Russell County) into one roll call vote, seconded by Representative Thomas, and approved by voice vote.

The City of Lancaster requested a \$4 million Fund F loan, of which \$1 million will be allocated as a principal forgiveness subsidy. The city also has commitments from both ARC [Appalachian Regional Commission] and Rural Development to fully fund the new 3 MGD water treatment plant project to replace the current 2.1 MGD plant. The project also will address sludge processing to remedy a Notice of Violation from the Kentucky Division of Water. The water rate for 4,000 gallons, effective since April 1, 2018, is \$31.32. The term is 30 years at .50 percent.

The City of Paintsville requested a \$2.01 million Fund F loan, of which 50 percent will be allocated as a principal forgiveness subsidy. The project is a 150,000 gallon storage tank to replace a 100,000 gallon storage tank, replacement pump station, and associated line work. The water rate for 4,000 gallons, effective since May 1, 2018, is \$30.00 inside the city and \$40.76 outside the city. The term is 30 years at .50 percent.

The City of Jamestown requested a \$500,000 Fund F loan, of which 50 percent will be allocated as a principal forgiveness subsidy. The city also has a \$500,000 grant committed to fully fund the [Downtown Jamestown Waterline Replacement]

project, which will replace aging water lines in the downtown area. The water rate for 4,000 gallons, effective since April 1, 2018, is \$25.00 inside the city and \$32.00 outside the city. The term is 30 years at .50 percent.

A motion was made by Senator Carroll to approve the three Fund F loans to the Cities of Lancaster, Paintsville f/b/o Paintsville Utilities Commission, and Jamestown, seconded by Senator Mills, and approved by unanimous roll call vote.

#### **New Debt Issue**

Mr. Barrow submitted the Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Revenue Bonds, Series 2019-1. He stated that state agency debt issuance is lower, consistent with the overall decrease in municipal bond market volume, and that this was one of the Office of Financial Management's lowest number of submittals. The negotiated KHESLC transaction, which may be tax-exempt, is primarily for Advantage Refinance, Advantage Education, and Advantage Parent loans. The anticipated sale date is the end of February with an estimated \$110 million in senior and \$25 million in subordinate bonds to be issued at a 4.69 percent true interest cost.

A motion was made by Senator Carroll to approve the new debt issue, seconded by Representative Sorolis, and approved by unanimous roll call vote.

#### **School District Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation**

Mr. Barrow submitted two school bond issues with School Facilities Construction Commission (SFCC) participation for projects [in Breckinridge and Laurel Counties]. The total estimated issuance is projected to be \$10.5 million, with SFCC's participation at just under 10 percent. No tax increases were necessary to finance the projects.

In response to queries from Senator McDaniel, Mr. Barrow stated that ratings actions on the KRS 160.160(5) school district intercept program typically move in tandem with ratings actions on general fund appropriation supported debt. Moody's rates the majority of local school district transactions.

A motion was made by Senator Carroll to approve the new debt issue, seconded by Representative Thomas, and approved by unanimous roll call vote.

With there being no further business the meeting adjourned at 1:31 p.m.

## **PUBLIC PENSION OVERSIGHT BOARD Minutes**

December 17, 2018

### **Call to Order and Roll Call**

The 9th meeting of the Public Pension Oversight Board was held on Monday, December 17, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Gerald A. Neal, Dennis Parrett, and Wil Schroder; Representatives Ken Fleming, DJ Johnson, James Kay, Arnold Simpson, and Russell Webber; J. Michael Brown, John Chilton, Timothy Fyffe, Mike Harmon, James M. "Mac" Jefferson, and Sharon Mattingly.

Other Legislators Attending: Representatives Derrick Graham and Jim DuPlessis.

Guests: David Eager, Executive Director, and Katherine Rupinen, General Counsel, Division of Advocacy, Kentucky Retirement Systems; and Danny White, Gabriel, Roeder, Smith & Company.

LRC Staff: Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

### **Approval of Minutes**

Representative Fleming moved that the minutes of the November 26, 2018 meeting be approved. Representative Johnson seconded the motion, and the minutes were approved without objection.

### **Agency Participation Issues**

David Eager, Executive Director, Kentucky Retirement Systems (KRS) began his comments by commending the legislature for the additional funding received and pointed out that KRS had received an additional \$185 million in contributions during the recently completed 2018 fiscal year. In addition, with the passage of HB 200 and an employer contribution rate of 83 percent for the Kentucky Employees Retirement System (KERS) nonhazardous plan, the plan anticipates a positive cash flow of \$300 million without considering investment returns. However, Mr. Eager noted the significant increase in rates did come with some negative impact, most notably relating to quasi-state (quasi) agencies that could not afford to either remain or exit the plan. He indicated KRS staff had investigated many options and were proposing three to the Public Pension Oversight Board (PPOB) for consideration.

With regards to employer participation, Mr. Eager provided some background and reviewed previous legislative enactments relating to the matter. He noted that HB 62, which was passed in 2015, initially created the process by which certain agencies could cease participation and leave KRS. The process according to HB 62, which could take up to 18 months, started with an application, a cash deposit to cover needed actuarial analysis, and initial approval by the KRS board. Next, an actuarial valuation was conducted using the assumed rate of return, a cost was determined, the agency made a decision to leave or stay, and the agency could pay the cost as a lump sum or in installments over a 20-year period. In 2017, HB 351 adjusted the process by establishing a benchmark for the actuarially assumed interest rate used to calculate the cost estimate and by removing the installment payment option for agencies. In 2018, HB 362 froze the contribution rate for quasi agency employers in KERS nonhazardous at 49.47 percent for FY 2019 (versus 83.43 percent for every

other employers) and also created a phase-in period for employers of the County Employees Retirement System (CERS) plan. Mr. Eager also discussed a 2018 legislative proposal that did not become law that would have offered quasi agencies a 40-year interest-free installment plan for paying the costs to cease participation.

Mr. Eager discussed the first of three key aspects to the KERS nonhazardous funding problem. First, he noted that contributions are based on a percent of payroll calculation, which has led agencies to outsource, not replace departing employees, and have retirements that exceed new hires. As payroll has declined, so have contributions received, which then leads to a higher contribution rate and more incentive for employers to look for ways around paying the increasing contribution rate. Danny White, Gabriel, Roeder, Smith & Company, the KRS consulting actuary, reviewed recommended and actual budgeted contribution rates from 1993 through 2019 for the plan, noting that, during this period of rising rates, the active member populations had declined significantly. Mr. White indicated that, in a situation like this, where rates are climbing, but covered payroll is declining, using a percent of payroll mechanism to collect contributions is not adequate. Mr. White recommended the legislature enact a fixed-dollar allocation and stated that a similar provision had been included in SB 151.

Second, Mr. White stated that another key to the KERS nonhazardous funding problem was the fact that a majority of the unfunded actuarial liability (UAL) covered retiree benefit payments. He reviewed the unfunded liability of both the total KERS nonhazardous fund and the smaller group of quasi agencies, where retiree benefits accounted for 69 percent and 59 percent of the UAL, respectively. He stated that the smaller group of quasi agencies accounted for approximately 20 percent of the total KERS nonhazardous UAL. Mr. White and Mr. Eager both emphasized this was related to current retiree payments, which presents a dilemma the state cannot legislate its way out of. Mr. White reviewed a chart of active versus retired members dating back to 2010, which showed the declining active membership base referenced earlier in the meeting.

Third, Mr. White stated the KERS funding problem is putting pressure on quasi agencies that cannot afford to pay the higher contribution rates and are being faced with the option of bankruptcy. Mr. White noted two major problems that are caused by bankruptcy. First, contributions paid by the employer and employees of the agency are lost. Secondly, the unfunded liability that is associated with the agency must be covered by the remaining employers, which then further drives up future contribution rates. Mr. White provided an example of Seven County Services as an employer that exited the plan through bankruptcy.

Mr. Eager focused the discussion on quasi-state agencies and the dilemma they are facing. Many quasi

agencies had told KRS they could not afford the 83.43 percent contribution rates, but also could not afford cessation as outlined by HB 351. Mr. Eager stated that the state wants the services of these quasi agencies to continue, and most agencies would like to remain in KRS.

In response to a question from Senator Bowen regarding new agencies joining KERS, Ms. Rupinen, General Counsel, Division of Advocacy, KRS stated she is not aware of any moratorium restricting new agency participation, but very few are seeking to join given the cost of contribution rates.

Mr. Eager continued the discussion by defining and providing a list of the 118 quasi-governmental entities participating in KERS. He noted they are not defined by statute, but generally, represent services created by government, tend to maintain separate legal status, and often are governed by board members who are appointed by government officials. He stated that depending on how these entities are defined, there could be up to 600 quasi agencies in KERS and CERS, including health departments, mental health units, universities, housing authorities, advocacy centers, and other agencies.

Mr. Eager and Mr. White offered three recommended options for addressing the participation issues facing the quasi employers. Mr. Eager indicated that staff had considered all options and tried to be creative, but in the end, the recommended options were fairly straightforward.

Option 1 would require quasi-governmental agencies to resume paying the actuarially determined contribution rate (currently 83.43 percent) after the one year reprieve given in FY 2019. The advantage of this option would be that all employers are paying the same rate, but disadvantages include potential bankruptcies and the state losing services provided by quasi agencies. Mr. White stated that this option would likely result in less total contributions received compared to having all the quasi agencies paying 49.47 percent, given the likelihood of bankruptcy or cessation.

Option 2 would keep the contribution rate for quasi-government agencies at a separate, lower rate (currently 49.47 in FY 2019), while also converting the contribution required for amortizing the unfunded liability to a fixed dollar payment rather than a percent of payroll. Many agencies have indicated this option would allow them to continue operating, while converting the amortization to a fixed dollar would remove the risk associated with a declining payroll.

In response to a question from Senator Bowen, Mr. White stated that once a policy was established, and a lower contribution rate determined, the rate established would be used to calculate the dollar amount owed by each quasi agency. The employers would be invoiced for dollar contributions rather than as a percent of their payroll.

In response to a question from Representative Miller regarding amortization periods, Mr. White

stated that option 2 did not include any change to the length of the amortization period. However, some of those decisions would be determined by policy. A policy of charging a fixed rate would make the amortization period irrelevant as employers would pay that same rate, expressed in total dollars, until the fund is 100 percent funded.

In response to a question from Representative Fleming regarding an analysis or assessment of value, Mr. Eager indicated that KRS was not in a position to assess the value or impact of the underlying quasi agencies.

In response to questions from Mr. Harmon, Mr. White indicated that, for administrative purposes, the fixed contribution rate would apply to each agency. Effectively, that fixed rate would then be used to calculate a dollar amount due. A portion of the dollar amount invoiced would be used to pay the normal cost for active employees, while the remainder would be applied to the employers outstanding UAL.

Mr. White noted that option 2 would represent a policy decision for the quasi agencies to pay less, thus a disadvantage is that additional funding would be required. Using the current rate of 49 percent that quasi agencies are paying, the total shortfall is approximately \$132 million, which could be made up through future budgets or higher contribution rates for the remaining employers. Mr. White referenced a slide which provided detail to the estimate of \$132 million in contributions.

In response to questions from Senator McDaniel, Mr. White stated that other agencies or the general fund would have to make up the difference if quasi agencies continue to pay just 49 percent converted to a fixed dollar payment.

Option 3 would keep the contribution rate for quasi-government agencies at a reduced rate (currently 49.47 in FY 2019), but also require a "soft freeze" of benefits. Mr. White commented that this option would be subject to future litigation, and there could be workforce and financial implications as well. He noted that some might argue this option represents a shared solution, which asks Tier 1 and 2 members to sacrifice some benefits, but it is still a better option for members than having their employer filing bankruptcy or ceasing to participate.

In response to questions from Mr. Harmon, Mr. White stated Tier 1 and 2 members would not lose any current benefits accrued under this option, but would then be transitioned to Tier 3 for future service. He noted this could trigger one of the potential disadvantages, where Tier 1 employees decide to just go ahead and retire. If employers decided to not replace retiring members, not only would less contributions be received, but there could be workforce issues.

Mr. Eager reviewed two recommendations that had been approved by the KRS Board of Trustees. First, the board recommended that current provisions of HB 62 and HB 351 not be altered. Secondly, the board recommended adopting the option 2 approach



to addressing the quasi agency participation issue. He stated that none of the options were optimal, but option 2 results in the least amount of risk of bankruptcy and payroll decline.

Senator Bowen recognized and welcomed Representative Jim DuPlessis, who will serve as the new Co-Chair of the PPOB in 2019.

In response to a question from Representative DuPlessis with regards to requiring employers to pay contributions on outsourced workers, Mrs. Rupinen indicated that the option had been discussed in years past, and she believed that KRS would not be opposed to it.

Mr. White added that KRS does not currently know how many agencies are using contract employees. He indicated that requiring contributions for contract employees could be an option if payroll could be identified to make sure those employers were faithfully making those contributions. Mr. White also added that it was his understanding that, in some cases, employers are reducing head count through other sources, such as technology, and not utilizing contract employees. Mr. Eager added that KRS would like to do a follow-up with a more thorough examination.

In response to a question from Representative DuPlessis regarding how option 2 would work for an employer looking to add employees, Mr. White explained that the normal cost component would act as a variable rate and would be paid for each employee. The dollar amount that would serve to pay down the unfunded liability would then be shared across all employees. So, employers who wanted to add employees would not have to pay the full rate on every new employee, just the normal cost for that additional employee.

In response to questions from Mr. Chilton, Mr. White agreed that options 1 and 2 would impact employer funding, while option 3 did consider a change in benefits for active Tier 1 and 2 members moving into Tier 3 on a going forward basis. In response to follow up questions regarding how option 2 might work for other plans, such as CERS and the Teachers' Retirement System, Mr. White noted that the CERS plan was not funded with general fund appropriations and creating a situation where some employers paid less than others could create some real inequality, since the difference would have to be paid by the rest of the employers. So, in the case of CERS, it is more paramount that the rate be the same across all employers.

Representative Kay made a comment regarding Representative DuPlessis' earlier question about outsourcing, and noted that he had previously filed a bill addressing the matter and does believe there are a lot of state jobs that are being contracted in order to avoid the pension costs, which is not helping the unfunded problem.

In response to a question from Senator Bowen regarding how many employers would be willing to pay benefit contributions on contract

workers that are not receiving the benefits, Mr. White stated that a partial amount could be collected for the unfunded liability.

#### **Recommendations**

Senator Bowen reviewed the 2018 PPOB recommendations. The recommendations included:

PPOB staff should research and present information to the board regarding the level of compensation paid to retirement system board members in Kentucky and nationwide.

The PPOB should study issues regarding mandates for system asset managers to abide by the CFA Code of Conduct and whether the SEC Code of Ethics should be used as an alternative mandate.

Legislation should be enacted, similar to provisions included in BR 11 that has been prefilled for the 2019 Regular Session, to allow KRS to conduct electronic trustee elections, to synchronize CERS trustee elections to save administrative costs, and to make other housekeeping changes recommended by KRS.

Legislation should be enacted, similar to the provisions included in BR 202 that has been prefilled for the 2019 Regular Session, to void the retirement of an elected official who following retirement returns to the same office within 12 months.

Legislation should be enacted to convert the funding formula of the KRS systems so that each agency pays a set dollar amount.

The General Assembly should consider auto-enrolling future public employees into Kentucky Deferred Compensation with a 1 percent employee contribution.

The General Assembly should enact legislation to address funding/participation concerns of quasi-governmental employers.

Representative Johnson moved that the 2018 Recommendations be approved. Representative Miller seconded the motion, and the recommendations were approved without objection. J. Michael Brown abstained.

Representative Simpson moved that the draft PPOB 2018 Annual Report be approved subject to the addition of the recommendations just approved and any technical edits needed. Representative Johnson seconded the motion, and the draft PPOB 2018 Annual Report was approved without objection.

Senator Bowen recognized with resolutions the legislators leaving PPOB. Those mentioned were Representative Fleming, Representative Kay, and Representative Simpson. Senator Higdon recognized Senator Bowen with a resolution along with comments from Representative Miller.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Monday, January 28, 2019.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

February 12, 2019

#### **Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, February 12, 2019, at 3:37 PM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and John Schickel; Representatives Charles Booker, Chris Fugate, and Mark Hart.

Guests: Kelley Webb, Jennifer Moore, Tom Stratton, Vestena Robbins, Kristi Putnam, Regina Stivers, Misty Judy, Lee Powers, Rachelle Johnson, Dr. Roger Cleveland, Mike Denney, Howard Kline, Dr. Jeff Howard, Tisha Johnson, Gloria Dennis, Brian Mefford, Jason Rainey, Jessica Burke, Sandra Dunahoo, Amy Barnes, Greg Ladd, and Will Rich.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

A motion was made by Representative Lee to approve Minutes of the January 2019, meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Lee 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 Lee 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 Lee 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 Lee 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 Lee 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:**  
**ATTORNEY GENERAL**

Theresa Carolyn Hayden, 1900003271.  
BOARD OF LICENSING HEARING AID  
DEALERS & FITTERS

Mary E. Martins the Word Private Investigations,  
1900003368.

DEPARTMENT FOR ENVIRONMENTAL  
PROTECTION

Madison Consulting Group, Inc., 1900003274.  
DEPARTMENT FOR INCOME SUPPORT  
Fabella-Ignacio Medical & Professional Services,  
Inc., 1900001118-1.

DEPARTMENT OF HIGHWAYS  
J. Michael Jones and Associates, 1900003378; The  
Raleigh Company, 1900003379; G. Herbert Pritchett  
& Associates, Inc., 1900003382; Baumgardner and  
Associates PSC, 1900003383; Bluegrass Valuation  
Group, LLC, 1900003384; Matthew L. Chapman,  
1900003385; Baumgardner and Associates PSC,  
1900003386; Bold Pursuits, LLC, 1900003387; Appco  
Appraisal Service, Inc., 1900003388; Kentucky Field  
Service Realty, 1900003389; Tammy L. Barnes,  
1900003390; Bluegrass Valuation Group, LLC,  
1900003392; Baumgardner and Associates PSC,  
1900003393; Dale Crump, 1900003394; Thurston  
Freeman, 1900003395; Bluegrass Valuation  
Group, LLC, 1900003396; GRW Engineers, Inc.,  
1900003413; Burgess and Niple, Inc., 1900003425;  
HDR Engineering, Inc., 1900003491; Integrated  
Engineering, 1900003492; Municipal Engineering  
County, 1900003494.

DEPARTMENT OF INSURANCE  
HBM Consulting Services, LLC, 1800001855-1.  
DEPARTMENT OF VETERANS AFFAIRS  
Dietary Consultants, Inc., 1900003444.  
KENTUCKY EMPLOYERS MUTUAL  
INSURANCE

Adams, Stepner, Woltermann & Dusing, PLLC,  
19-ASW-001; Ferreri Partners, PLLC, 19-FER-001.

KENTUCKY FISH AND WILDLIFE  
RESOURCES

Copperhead Environmental Consulting, Inc.,  
1900003399.

KENTUCKY RETIREMENT SYSTEMS  
Roland P. Merkel, 1900003350; Darren L. Embry,  
1900003351; Samantha T. Nance, 1900003352; Keith  
Hardison, 1900003353; James Garvin Womack PSC,  
1900003358.

KENTUCKY STATE UNIVERSITY  
Dr. Michael Dailey, 19-19.  
MOREHEAD STATE UNIVERSITY  
Belinda Hitch, 19-034; Multi, 19-035; Multi, 19-  
036.

MURRAY STATE UNIVERSITY  
Xcelerated Concepts, LLC, 017-19; Murphy  
Group Architects, PLLC, 018-19.

NORTHERN KENTUCKY UNIVERSITY  
Stantec Consulting Services, Inc., 2019-116;  
THP Limited, Inc., 2019-130; Isaacson Miller, Inc.,  
2019-131.

TRANSPORTATION - OFFICE OF THE  
SECRETARY

James A. Turner, 1900003381.  
UNIVERSITY OF KENTUCKY  
CMTA, Inc., A191130; Staggs & Fisher  
Consulting Engineers, A191140; Wrigley Media  
Group, K19-234.

UNIVERSITY OF LOUISVILLE  
Storbeck/Pimentel & Associates, 19-071.  
WESTERN KENTUCKY UNIVERSITY  
Ruffalo Noel Levitz, LLC, 182035.

THE FOLLOWING PERSONAL SERVICE  
AMENDMENTS  
WERE REVIEWED WITHOUT OBJECTION:  
BOARD OF MEDICAL LICENSURE  
Multi, 1900000777.

COUNCIL ON POSTSECONDARY  
EDUCATION

AGB Search, LLC, 1900001958.  
DEPARTMENT FOR COMMUNITY BASED  
SERVICES

Public Consulting Group, Inc., 1800001649.  
DEPARTMENT FOR INCOME SUPPORT  
Humildad Anzures, 1900000492; Olegarios J.  
Ignacios, Jr, 1900001118.

DEPARTMENT OF EDUCATION  
Assessment Solutions Group, 1900000439.  
DEPARTMENT OF HIGHWAYS

HDR Engineering, Inc., 1000003299; Stantec  
Consulting Services, Inc., 1200001543; HMB  
Professional Engineers, Inc., 1300001320; American  
Engineers, Inc., 1300001393; Gresham Smith &  
Partners, 1300002683; HMB Professional Engineers,  
Inc., 1400000565; CDP Engineers, Inc., 1400002855;  
QK4, 1500000522; Integrated Engineering,  
PLLC, 1500001416; Palmer Engineering County,  
1500001696; Parsons Transportation Group, Inc.,  
1600000181; Hanson Professional Services, Inc.,  
1600000599; CDP Engineers, Inc., 1600000781;  
Arnold Consulting Engineering, 1600000984;  
HMB Professional Engineers, Inc., 1600003848;  
Palmer Engineering County, C-00124800; Presnell  
Associates, Inc. d/b/a QK4, C-03349284; Gresham  
Smith & Partners, C-99005237.

EASTERN KENTUCKY UNIVERSITY  
Passport Health of Kentucky, 20-006; Cammack  
Retirement Group, 20-010.

FACILITIES & SUPPORT SERVICES  
Biagi, Chance, Cummins, London, Titzer, Inc.,  
1300001446; Omni Architects, 1400000794; Clotfelter  
Samokar, PSC, 1500000669; Bowser-Morner, Inc.,  
1500001064; Omni Architects, 1500001238; Kohrs  
Lonnemann Heil Engineers, PSC, 1600000312; AMEC  
Foster Wheeler Environment & Infrastructure, Inc.,  
1600000665; Lockett and Farley Architects Engineers  
and Construction Managers, Inc., 1600000831; Biagi,  
Chance, Cummins, London, Titzer, Inc., 1800001099;  
Redwing Ecological Services, Inc., 1800002056; Third  
Rock Consultants, LLC, 1900002766.

KENTUCKY EMPLOYERS MUTUAL  
INSURANCE

Hanna Resource Group, 19-HRG-001.  
KENTUCKY HIGHER EDUCATION

ASSISTANCE AUTHORITY  
Gabriel Roeder Smith & Company, 1900002398.  
KENTUCKY LOTTERY CORPORATION  
TEK Systems, 19-11-040.  
MURRAY STATE UNIVERSITY  
Multi, 003-19.

UNIVERSITY OF KENTUCKY  
Champlin Architecture, A151270; Omni  
Architects, A181090; WorleyParsons Group, Inc.,  
K19-170.

WESTERN KENTUCKY UNIVERSITY  
Multi, 182026.

THE FOLLOWING MEMORANDA OF  
AGREEMENTS

WERE REVIEWED WITHOUT OBJECTION:  
ADMINISTRATIVE OFFICE OF THE  
COURTS

Northern Kentucky Regional Mental Health  
Mental Retardation Board, 1900003456.

BEHAVIORAL HEALTH, DEVELOPMENTAL  
& INTELLECTUAL DISABILITIES

Bluegrass.Org, 1900003229.  
COMMISSION FOR CHILDREN WITH  
SPECIAL HEALTH CARE NEEDS

University of Kentucky Research Foundation,  
1900002796.

DEPARTMENT FOR ENVIRONMENTAL  
PROTECTION

Marshall County Fiscal Court, 1900003316.  
DEPARTMENT FOR LIBRARIES &  
ARCHIVES

Morgan County Fiscal Court, 1900002741;  
Nelson County Public Library, 1900002743;  
Washington County Public Library, 1900002753;  
Louisville Jefferson County Metro Government,  
1900003318; Louisville Jefferson County Metro  
Government, 1900003319.

DEPARTMENT FOR LOCAL GOVERNMENT  
Lake Cumberland Area Development District,  
1900003303; City of Coal Run Village, 1900003338;  
Simpson County, 1900003366.

DEPARTMENT FOR PUBLIC HEALTH  
University of Kentucky Research Foundation,  
1900003174; University of Kentucky Research  
Foundation, 1900003176; Creative Agents of Change  
Foundation, Inc., 1900003243; Justice Cabinet,  
1900003253.

DEPARTMENT FOR WORKFORCE  
INVESTMENT

Build Inclusion, Inc., 1900003315; Mattingly  
Center, Inc., 1900003321; Mental Health America of  
Northern Kentucky and Southwest Ohio, 1900003325;  
Options Unlimited, Inc., 1900003326.

DEPARTMENT OF EDUCATION  
Northern Kentucky Cooperative for Educational  
Services, Inc., 1900000425-1; Fayette County Board  
of Education, 1900000429-1; Scott County Board  
of Education, 1900000455-1; Bath County Board of  
Education, 1900000491-1; The Center for Education  
Leadership, 1900001943-1; Crittenden County  
Board of Education, 1900003178; Collaborative for



Teaching, 1900003196.

DEPARTMENT OF MILITARY AFFAIRS

Louisville & Jefferson MSD, 1900003209; Louisville & Jefferson MSD, 1900003214; Louisville & Jefferson MSD, 1900003219; Louisville & Jefferson MSD, 1900003220; Oldham County Fiscal Court, 1900003231; Oldham County Fiscal Court, 1900003232.

ECON DEV - OFFICE OF THE SECRETARY

Kentucky Science and Technology Corporation, 1900003258.

KENTUCKY STATE FAIR BOARD

Louisville Downtown Management District, 1900003373.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS**

**WERE REVIEWED WITHOUT OBJECTION:**  
**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 1800000576; University of Kentucky Research Foundation, 1900000718.

**CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING**

Multi, 1900000816; Multi, 1900001251.

**DEPARTMENT FOR PUBLIC HEALTH**

University of Kentucky Research Foundation, 1800001694; Heartland Cares, Inc., 1800001772; Pathways, Inc., 1800001884; Norton Healthcare, 1800001906; National Jewish Health, 1900001557; University of Kentucky Research Foundation, 1900002814.

**DEPARTMENT OF AGRICULTURE**

Multi, 1700001659; Multi, 1900003210.

**DEPARTMENT OF EDUCATION**

Wayne County Board of Education, 1900001729; Clark County Board of Education, 1900003135.

**KY RIVER AUTHORITY**

United States Department of the Interior, 1900000268.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS**

**WERE SELECTED FOR FURTHER REVIEW:**  
**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Staff Care, Inc., 1900003333. Kelley Webb, Jennifer Moore, and Tom Stratton discussed the contract with the committee. A motion was made by Representative Lee to defer the contract to the March 2019 meeting of the committee. Senator Hornback seconded the motion, which passed with Senator Carroll voting no and Representative Booker electing to pass.

**CHFS - OFFICE OF THE SECRETARY**

Collaborative Safety, LLC, 1900003380. Tom Stratton and Kristi Putnam discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with Senator Schickel voting no.

**KENTUCKY FISH AND WILDLIFE RESOURCES**

Richard M. Storm, 1900003376. Regina Stivers, Misty Judy, and Lee Powers discussed the contract with the committee. A motion was made by Senator Hornback to disapprove the contract. Senator Meredith seconded the motion which failed, with Senator Carroll, Senator Schickel, Representative Fugate, Representative Hart, and Representative Lee voting no and Representative Booker electing to abstain. A motion was made by Representative Hart to consider the contract as reviewed. Representative Fugate seconded the motion, which passed with Senator Hornback and Senator Meredith voting no and Representative Booker electing to abstain.

**KENTUCKY STATE UNIVERSITY**

Dr. William Turner, 19-18. Rachelle Johnson and Dr. Roger Cleveland discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS**

**WERE SELECTED FOR FURTHER REVIEW:**  
**KENTUCKY LOTTERY CORPORATION**

Ellipse Solutions, LLC, 19-17-016. Mike Denney and Howard Kline discussed the contract with the committee. A motion was made by Representative Lee to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10K**

**AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

**KENTUCKY STATE UNIVERSITY**

Monica Ray, 19-17. A motion was made by Senator Carroll to defer the contract to the March 2019 meeting of the committee. Representative Lee seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS**

**WERE SELECTED FOR FURTHER REVIEW:**  
**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Kentucky Hospital Research & Education Foundation, 1900003411. Vestena Robbins, Jennifer Moore, and Tom Stratton discussed the contract with the committee. A motion was made by Representative Lee to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

**DEPARTMENT FOR PUBLIC HEALTH**

University of Kentucky Research Foundation, 1900002786. Tom Stratton and Dr. Jeff Howard

discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

**DEPARTMENT FOR PUBLIC HEALTH**

University of Kentucky Research Foundation, 1900003362. Tom Stratton and Dr. Jeff Howard discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

**ECON DEV - OFFICE OF THE SECRETARY**

Murray State University, 1900003137. Brian Mefford, Jason Rainey, and Jessica Burke discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS**

**WERE SELECTED FOR FURTHER REVIEW:**  
**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Kentucky Alliance Boys and Girls Club, 1800001973. Vestena Robbins, Jennifer Moore, and Tom Stratton discussed the contract with the committee. A motion was made by Representative Fugate to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

**DEPARTMENT FOR PUBLIC HEALTH**

University of Kentucky Research Foundation, 1800002124; University of Louisville Research Foundation, 1800002133. Tisha Johnson, Gloria Dennis, and Tom Stratton discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

**EXEMPTION:**

**CABINET FOR HEALTH AND FAMILY SERVICES**

The Cabinet for Health and Family Services (CHFS) requested an amended exemption on behalf of the Department for Behavioral Health, Developmental and Intellectual Disabilities from Committee Policy Statement #99-4, which prohibits contracts and agreements from extending beyond the biennium for KORE contracts. A motion was made by Representative Hart to grant the request to September 30, 2019. Representative Lee seconded the motion, which passed without objection.

Sandra Dunahoo, Greg Ladd, Amy Barnes, and Will Rich with the Department for Local Government discussed the inability of the Cabinet to resolve the FY 2018 funding dispute between the Cabinet and Area Development Districts across the Commonwealth as well as the failure to finalize the joint funding agreement for FY 2019.



There being no further business, the meeting was adjourned at 6:04 PM.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the January Meeting**

January 9, 2019

#### **Call to Order and Roll Call**

The January meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, January 9, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Representative David Hale, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, Alice Forgy Kerr, and Stephen West; Representatives Jason Petrie, and Tommy Turner.

Guests: Kate Ware, Higher Education Assistance Authority; Cassie Trueblood, Education Professional Standards Board; Julie Campbell, Board of Cosmetology; Clint Quarles, Department of Agriculture; David Cook, Whitney Crowe, Deanna Durrett, Wayne Lewis, David Millanti, Tara Rodriguez, Department of Education; Steve Humphress, Lee Walters, Department of Alcoholic Beverages; Stephanie Brammer-Barnes, Steven Davis, Office of Inspector General; Julie Brooks, Pamela Hendren, Department for Public Health; Jonathan Scott, Department for Medicaid Services; Laura Begin, Christa Bell, Elizabeth Caywood; Department for Community Based Services.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Wednesday, January 9, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Kentucky Higher Education Assistance Authority; Division of Student and Administrative Services

11 KAR 4:080. Student aid applications. Kate Ware, Student Aid Branch Manager, represented the division.

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

Education Professional Standards Board: Teaching Certificates

16 KAR 2:100. Junior reserve officers training corps. Wayne Lewis, commissioner, and Cassie Trueblood, policy advisor and special counsel, represented the board.

In response to a question by Senator Clark, Ms. Trueblood stated that 16 KAR 2:100 and 16 KAR 9:040 removed requirements pertaining to background checks because they were redundant. The individual districts already required the background checks.

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

16 KAR 2:210. Provisional and professional certificate for orientation and mobility specialist.

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

Advanced Certification and Rank

16 KAR 9:040. Part-time adjunct instructor certificate.

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

**BOARDS AND COMMISSIONS:** Board of Cosmetology

201 KAR 12:030. Licensing, permits, and examinations. Julie Campbell, board administrator, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 11 to include upon renewal, payment of any outstanding fines associated with prior disciplinary action as established in KRS 317A.145; (2) to amend Section 12 to delete language regarding a change in ownership, management, or location of a licensed salon or facility; (3) to amend Section 13 to establish that a transfer of ownership of a salon shall not take effect while the salon is the subject of ongoing disciplinary action pursuant to KRS 317A.145; (4) to amend Section 9 for clarity by deleting language regarding failure to apply for a license within one (1) year of passing the examination because the examination score is valid for six (6) months; (5) to amend Section 10 to clarify that the eighty (80) hour supplemental course shall be required after the third failed examination attempt; (6) to amend Sections 4, 6, 12, and 14 through 19 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (7) to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:082. Education requirements and school administration.

A motion was made and seconded to approve the following amendments: (1) to amend Section 8 to clarify that 325 hours of required theory instruction may be taken in person or online; (2) to amend Section 10 to clarify requirements for online theory instruction; (3) to amend Sections 4, 15, 16, 32, and

33 to comply with the drafting requirements of KRS Chapter 13A; and (4) to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:260. Fees.

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

**DEPARTMENT OF AGRICULTURE:** Office of the Commissioner: Referendums

302 KAR 1:011. Repeal of 302 KAR 001:010, 302 KAR 001:020, 302 KAR 001:030, 302 KAR 001:035, 302 KAR 001:040, 302 KAR 001:050, 302 KAR 001:055, 302 KAR 001:070, and 302 KAR 001:080. Clint Quarles, attorney, represented the office.

Regulation and Inspection; General

302 KAR 77:011. Repeal of 302 KAR 077:010 and 302 KAR 077:030.

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

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:150. Nontraditional Instruction Program. David Cook, Division of Innovation Director; Deanna Durrett, general counsel; and Wayne Lewis, commissioner, represented the department.

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

Office of Learning Programs Development: Office of Instruction

704 KAR 3:292. Education of migratory children.

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

704 KAR 3:303. Required academic standards.

704 KAR 3:365. Complaint procedures for programs under the Elementary and Secondary Education act of 1965.

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

Office of Chief State School Officer: Academic Standards

704 KAR 8:020. Kentucky Academic Standards for Reading and Writing.

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

704 KAR 8:040. Kentucky Academic Standards for Mathematics.

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

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Advertising Distilled Spirits and Wine

804 KAR 1:070. Product development and marketing samples. Steve Humphress, general counsel, and Lee Walters, counsel, represented the department.

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.

804 KAR 1:110. Consumer sampling events.

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

Malt Beverage, Equipment, Supplies, and Service  
804 KAR 11:031. Repeal of 804 KAR 011:030.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Long-term Care

900 KAR 2:021. Repeal of 900 KAR 002:020. Stephanie Brammer – Barnes, regulation coordinator, and Steven Davis, inspector general, represented the division.

900 KAR 2:040. Citations and violations; criteria and specific acts.

Department of Public Health: Food and Cosmetics

902 KAR 45:005. Kentucky food code. Julie Brooks, regulation coordinator, and Pamela Hendren, Food Safety Branch Manager, represented the department.

902 KAR 45:007. Repeal of 902 KAR 045:006 and 902 KAR 045:140.

In response to a question by Co-Chair Hale, Ms. Brooks stated that the bed and breakfast operator requirements in these administrative regulations were consolidated into 902 KAR 45:005.

902 KAR 45:090. Home-based processors and farmers market home-based microprocessors.

Department for Medicaid Services: Occupational, Physical, and Speech Therapy

907 KAR 8:040. Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities. Jonathan Scott, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) delete speech-language pathology clinical fellows from the list of approved providers; and (2) establish that an annual limit shall be twenty (20) rehabilitative visits and twenty (20) habilitative visits per recipient per calendar year per type of therapy. 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 3:050. Claims and additional administrative provisions. Christa Bell, director; Laura Begin, regulation coordinator; and Elizabeth Caywood, deputy commissioner, represented the division.

In response to a question by Co-Chair West, Ms. Caywood stated that the previous look-back period for SNAP overpayments was one (1) year.

Division of Protection and Permanency: Child Welfare

922 KAR 1:010. Independent non-relative adoptions.

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

Child Welfare

922 KAR 1:100 & E. Public agency adoptions.

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

Other Business: Co Chair Hale introduced Senator Stephen West, who was appointed to the subcommittee to fill the Senate vacancy. Senator Clark made a motion, seconded by Senator Kerr, that Senator West be nominated for Senate Co-Chair. Senator West accepted the nomination. Senator Clark made a motion, seconded by Senator Raque Adams, to end Senate Co-Chair nominations. Senator West was unanimously endorsed as Senate Co-Chair of the Subcommittee. Co-Chair West stated that he looked forward to working with everyone involved with the subcommittee.

The following administrative regulations were deferred or removed from the January 9, 2019, subcommittee agenda:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; Corporations

103 KAR 16:151. Repeal of 103 KAR 016:100, 103 KAR 016:110, 103 KAR 016:120, 103 KAR 016:130, 103 KAR 016:145, and 103 KAR 016:150.

103 KAR 16:270. Apportionment; receipts factor.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF).

Board of Nursing

201 KAR 20:056. Advanced practice registered nurse licensure and certification requirements.

201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing.

201 KAR 20:161. Investigation and disposition of complaints.

201 KAR 20:162. Disciplinary proceedings.

201 KAR 20:215. Continuing competency requirements.

201 KAR 20:220. Nursing continuing education provider approval.

201 KAR 20:226. Repeal of 201 KAR 020:235, 201 KAR 020:420, 201 KAR 020:430, 201 KAR 020:440, and 201 KAR 020:460.

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

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.

201 KAR 20:340. Students in prelicensure registered nurse and practical nurse programs.

201 KAR 20:350. Educational facilities and resources for pre-licensure registered nurse and practical nurse programs.

201 KAR 20:360. Continuing approval and periodic evaluation.

201 KAR 20:362. Fines for programs of nursing.

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

Board of Licensure for Marriage and Family Therapists

201 KAR 32:110. Telehealth.

ENERGY AND ENVIRONMENT CABINET: Office of Kentucky Nature Preserves



400 KAR 2:060. Definitions.

400 KAR 2:070. The Office of Kentucky Nature Preserves.

400 KAR 2:080. Dedication of nature preserves and registration of natural areas.

400 KAR 2:090. Management, use, and protection of nature preserves and natural areas.

400 KAR 2:100. Hearings and appeals.

Rare Plant Recognition

400 KAR 3:010. Definitions for 400 KAR Chapter 3.

400 KAR 3:020. Criteria for identifying and designating endangered or threatened species of plants.

400 KAR 3:030. Procedures for inclusion, removal or change of status of plant species on the state endangered or threatened list.

400 KAR 3:040. Endangered or threatened plant list.

Wild Rivers

400 KAR 4:110. Definitions for 400 KAR Chapter 4.

400 KAR 4:125. Wild rivers administration.

400 KAR 4:130. Wild rivers change of use permit procedures.

400 KAR 4:140. Wild rivers change of use permit standards.

Department for Environmental Protection: Division of Waste Management: Hazardous Waste

401 KAR 39:060. General requirements.

401 KAR 39:080. Hazardous waste handlers.

401 KAR 39:090. Hazardous waste permit program.

Enforcement and Compliance Monitoring

401 KAR 40:051. Repeal of 401 KAR 040:050.

Underground Storage Tanks

401 KAR 42:005. Definitions for 401 KAR Chapter 042.

401 KAR 42:020. UST system requirements, notification, registration, and annual fees.

401 KAR 42:060. UST system release and corrective action requirements.

401 KAR 42:250. Petroleum Storage Tank Environmental Assurance Fund reimbursement.

401 KAR 42:330. Small Owners Tank Removal Account.

401 KAR 42:341. Repeal of 401 KAR 042:011, 042:030, 042:040, 042:045, 042:050, 042:070, 042:080, 042:090, 042:095, 042:200, 042:290, 042:300, 042:316, 042:320, 042:335, and 042:340.

Office of Kentucky Nature Preserves: General Administrative Procedures

418 KAR 1:010. Definitions for 418 KAR Chapter 1.

418 KAR 1:020. Administrative procedures of the board.

418 KAR 1:040. Grant applications.

418 KAR 1:050. Procedures for acquisition of land.

418 KAR 1:060. Management.

418 KAR 1:070. Remedies.

JUSTICE AND PUBLIC SAFETY CABINET: Special Law Enforcement Officers

500 KAR 2:020. Filing and processing SLEO commissions.

500 KAR 2:030. Special law enforcement officers: evaluation examination.

Department of Juvenile Justice: Child Welfare

505 KAR 1:110. Department of Juvenile Justice Policy and Procedures Manual: program services.

505 KAR 1:180. Department of Juvenile Justice Policy and Procedures Manual: day treatment services.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Office of Learning Programs Development: Office of Instruction

704 KAR 3:305. Minimum requirements for high school graduation. David Cook, Division of Innovation Director; Deanna Durrett, general counsel; and Wayne Lewis, commissioner, represented the department.

In response to a question by Co-Chair West, Mr. Lewis stated that the Kentucky Board of Education decided to revise the minimum requirements for high school graduation based on Kentucky-specific data correlating education with life outcomes, including postsecondary matriculation rates, employment outcomes, and earning rates. An examination of the data indicated that the current minimum requirements for high school graduation were not meeting the needs of the Commonwealth. Proposed revisions to the minimum requirements for high school graduation included increased flexibility pertaining to course selection by students, with the condition that courses still comply with Kentucky's academic standards and with a student's individualized learning program; a demonstration of basic competence in mathematics and reading, demonstrated through existing assessments in eighth or tenth grade or through a student-compiled portfolio approved by the local superintendent; and graduation qualifiers, consisting of a list of eight (8) criteria of which a student must meet at least one (1). Graduation qualifiers were not synonymous with transition readiness qualifiers in the accountability system, but were a step toward transition readiness.

In response to questions by Co-Chair West, Mr. Lewis stated that, regardless of whether or not the department revised the minimum requirements for high school graduation, students would be taking the same assessments. The proposed revisions to the minimum requirements for high school graduation included the additional option of a student-compiled portfolio to demonstrate competency in lieu of deriving the demonstration of competency from the existing assessments. State law already required assessments, usually done through end-of-course examinations. Kentucky was moving toward replacing end-of-course examinations with end-of-span examinations. It was reasonable to expect a Kentucky student to demonstrate at least basic competence with mathematics and reading prior to high school

graduation.

In response to a question by Co-Chair Hale, Mr. Lewis stated that the department agreed to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, this administrative regulation was deferred to the February 11 meeting of the subcommittee.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 5, 7, 8, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:092. Disclosure of local government taxes and collection fee.

806 KAR 2:100. Disclosure of insurance premium surcharge.

806 KAR 2:121. Repeal of 806 KAR 002:120 and 806 KAR 002:150.

Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020.

Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:301. Repeal of 810 KAR 001:004, 810 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008, 810 KAR 001:009, 810 KAR 001:010, 810 KAR 001:012, 810 KAR 001:014, 810 KAR 001:015, 810 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018, 810 KAR 001:021, 810 KAR 001:024, 810 KAR 001:026, 810 KAR 001:027, 810 KAR 001:028, 810 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037, 810 KAR 001:040, 810 KAR 001:050, 810 KAR 001:060, 810 KAR 001:070, 810 KAR 001:080, 810 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110, 810 KAR 001:130, 810 KAR 001:140, 810 KAR 001:145, 810 KAR 001:150, and 810 KAR 001:300.

General

810 KAR 2:001. Definitions.

810 KAR 2:010. Racing commission and administrative staff.

810 KAR 2:020. Thoroughbred and flat racing officials.

810 KAR 2:030. Chemical dependency.

810 KAR 2:040. Stewards.

810 KAR 2:050. Judges and Standardbred racing officials.

810 KAR 2:060. Owners' authorized agents and jockey agents.

810 KAR 2:070. Thoroughbred and other flat racing associations.

810 KAR 2:080. Standardbred racing associations.

Licensing

810 KAR 3:001. Definitions.

810 KAR 3:010. Licensing of racing associations.



810 KAR 3:020. Licensing of racing participants.  
810 KAR 3:030. Licensing totalizator companies.  
810 KAR 3:040. Advance deposit account wagering.  
810 KAR 3:050. Simulcast facilities.  
Flat and Steeplechase Racing  
810 KAR 4:001. Definitions.  
810 KAR 4:010. Horses.  
810 KAR 4:020. Weights.  
810 KAR 4:030. Entries, subscriptions, and declarations.  
810 KAR 4:040. Running of the race.  
810 KAR 4:050. Claiming races.  
810 KAR 4:060. Objections and complaints.  
810 KAR 4:070. Jockeys and apprentices.  
810 KAR 4:080. Steeplechase racing.  
810 KAR 4:090. Owners.  
810 KAR 4:100. Trainers.  
Standardbred Racing  
810 KAR 5:001. Definitions.  
810 KAR 5:010. Registration and identification of horses.  
810 KAR 5:020. Eligibility and classification.  
810 KAR 5:030. Claiming races.  
810 KAR 5:040. Farm, corporate, or stable name.  
810 KAR 5:050. Stakes and futurities.  
810 KAR 5:060. Entries and starters.  
810 KAR 5:070. Running of the race.  
810 KAR 5:080. Harness racing and county fairs.  
Pari-Mutuel Wagering  
810 KAR 6:020. Calculation of payouts and distribution of pools.  
Incentive and Development Funds  
810 KAR 7:010. Backside improvement fund.  
810 KAR 7:020. Kentucky thoroughbred breeders' incentive fund.  
[810 KAR 7:030](#). Kentucky thoroughbred development fund.  
810 KAR 7:040. Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund.  
810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund.  
810 KAR 7:070. Violations, discipline, disputes, and investigation.  
Medication Guidelines  
810 KAR 8:010. Medication; testing procedures; prohibited practices.  
810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.  
810 KAR 8:030. Disciplinary measures and penalties.  
810 KAR 8:040. Out-of-competition testing.  
810 KAR 8:050. International medication protocol as condition of a race.  
810 KAR 8:060. Post-race sampling and testing procedures.  
Hearings and Appeals  
810 KAR 9:010. Hearings, reviews and appeals.  
Harness Racing  
811 KAR 1:301. Repeal of 811 KAR 001:010, 811

KAR 001:015, 811 KAR 001:020, 811 KAR 001:025, 811 KAR 001:030, 811 KAR 001:035, 811 KAR 001:037, 811 KAR 001:040, 811 KAR 001:045, 811 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060, 811 KAR 001:065, 811 KAR 001:070, 811 KAR 001:075, 811 KAR 001:080, 811 KAR 001:085, 811 KAR 001:90, 811 KAR 001:093, 811 KAR 001:095, 811 KAR 001:100, 811 KAR 001:105, 811 KAR 001:110, 811 KAR 001:115, 811 KAR 001:120, 811 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150, 811 KAR 001:185, 811 KAR 001:215, 811 KAR 001:220, 811 KAR 001:225, 811 KAR 001:230, 811 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285, 811 KAR 001:290, and 811 KAR 001:300.  
Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing  
811 KAR 2:301. Repeal of 811 KAR 002:015, 811 KAR 002:020, 811 KAR 002:030, 811 KAR 002:035, 811 KAR 002:040, 811 KAR 002:045, 811 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065, 811 KAR 002:070, 811 KAR 002:075, 811 KAR 002:080, 811 KAR 002:085, 811 KAR 002:090, 811 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100, 811 KAR 002:105, 811 KAR 002:110, 811 KAR 002:130, 811 KAR 002:140, 811 KAR 002:150, 811 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185, 811 KAR 002:190, 811 KAR 002:200, and 811 KAR 002:300.  
Real Estate Authority: Board of Home Inspectors  
815 KAR 6:001. Definitions for 815 KAR Chapter 6.  
815 KAR 6:010. Licensing requirements.  
815 KAR 6:030. Standards of conduct, complaints, and discipline.  
815 KAR 6:040. Education requirements and providers.  
815 KAR 6:101. Repeal of 815 KAR 006:020, 815 KAR 006:080, 815 KAR 006:090, and 815 KAR 006:100.  
CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: Certificate of Need  
900 KAR 6:075 & E. Certificate of need nonsubstantive review.  
Department of Medicaid Services: Division of Policy and Operations: Medicaid Services  
907 KAR 1:560 & E. Medicaid hearings and appeals regarding eligibility.  
907 KAR 1:563 & E. Medicaid covered services appeals and hearings unrelated to managed care.  
Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation  
921 KAR 2:055 & E. Hearings and appeals.  
Supplemental Nutrition Assistance Program  
921 KAR 3:060 & E. Administrative disqualification hearings and penalties.  
921 KAR 3:070 & E. Fair hearings.  
Child Welfare  
922 KAR 1:050. State funded adoption assistance.  
Child Welfare

922 KAR 1:530. Post-adoption placement stabilization services.

The subcommittee adjourned at 11:50 a.m. The next meeting of the subcommittee is tentatively scheduled for February 11, 2019, at 1 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the February Meeting

February 11, 2019

#### Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 11, 2019, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members : Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Perry B. Clark, and Alice Forgy Kerr; Representatives Mary Lou Marzian and Tommy Turner.

Guests: Todd Renner, Department of Revenue; Larry Hadley, Board of Pharmacy; Beth Gamble, Pam Hagan, Michael West, Board of Nursing; Scott Majors, Keith Poynter, Board of Physical Therapy; Ron Brooks, Daniel Schulman, Karen Waldrop; Department of Fish and Wildlife Resources; Michael Mullins, Zeb Weese, Office of Nature Preserves; Tony Hatton, Jon Maybriar; Department of Environmental Protection; William Codell, Tamra Gormley, Department of Juvenile Justice; Ryan Griffith, Jon Johnson, Brent Kroph, Larisa Plecha, Department of Transportation; Deanna Durrett, Amanda Ellis, Wayne Lewis; Department of Education; Stephen Humphress, Stephen Lee Walters, Department of Alcoholic Beverages; Jim Vicini, Division of Mine Safety; Heather Becker, Mitch Buchanan, Board of Home Inspectors; Denise Beatty, Charlese Blair, Health Information Exchange; Donna Little, Jim Musser, Office of Legislative and Regulatory Affairs; Jonathan Scott, Department for Medicaid Services; Laura Begin, Mary Carpenter, Paula Saenz, Department for Community Based Services; Joan Frey, Steve Hyndman, Galen College of Nursing; Brigitte Blom Ramsey, Prichard Committee for Academic Excellence; Steve Keeney, Kentucky Association of Home Inspection Professionals.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Monday, February 11, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION  
CABINET: Department of Revenue: Income Tax; Corporations

103 KAR 16:250. Net operating loss computation and deduction for corporations. Todd Renner,

executive director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to make a technical correction to Figure 2-1; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**BOARDS AND COMMISSIONS:** Board of Pharmacy

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF). Larry Hadley, executive director, represented the board.

In response to questions by Senator Clark, Mr. Hadley stated that an emergency medication kit was to ensure that medication would be on site for timely administration should the need arise. The kit was able to include prescription medication, over-the-counter medication, or a combination of both. An LTCF was able to have these medications in the amounts limited by this administrative regulation if there was a properly licensed administrator present.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to: (a) include definitions for “immediate supervision,” “pharmacist-in-charge,” and “supervision;” and (b) revise the definition for “long-term care facility” to: 1. reference KRS 216.510(1); and 2. exclude a family care home; and (3) to amend Section 2 to: (a) clarify that the pharmacist-in-charge of the dispensing pharmacy shall also be responsible for the access and administration of all drugs provided to an LTCF; (b) prohibit an emergency medication kit (EMK) from being stocked in a personal care home without personnel lawfully licensed to administer medications; and (c) clarify that LTCF drug stock in a personal care home shall not exceed five (5) individual doses each of thirty (30) non-controlled substances. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing

201 KAR 20:056. Advanced practice registered nurse licensure and certification requirements. Dr. Beth Gamble, education consultant; Pam Hagan, acting executive director; and Michael West, general counsel, represented the board. Dr. Joan Frey, academic president, and Steve Hyndman, provost, Galen College of Nursing, appeared in opposition to 201 KAR 20:320.

201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 and 5 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A.

Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:161. Investigation and disposition of complaints.

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

201 KAR 20:162. Disciplinary proceedings.

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

201 KAR 20:215. Continuing competency requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and 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.

201 KAR 20:220. Nursing continuing education provider approval.

201 KAR 20:226. Repeal of 201 KAR 020:235, 201 KAR 020:420, 201 KAR 020:430, 201 KAR 020:440, and 201 KAR 020:460.

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

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

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

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 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.

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

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

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

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

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.

In response to a question by Co-Chair West, Dr. Frey stated that it was necessary to prevent the use of a single standardized examination, post-program of study completion, which might prevent the release of a graduate’s name to a respected board of nursing for the purposes of sitting for the national licensure examination. This administrative regulation undermined the role of faculty in the determination of curricula, established learning outcomes, and the assessment of student learning through a variety of methods and sources. Other boards of nursing addressed this concern through issue papers, rather than through codified law. Galen College of Nursing respectfully requested that the subcommittee reject this administrative regulation in favor of an amended version that would prevent the use of a single standardized examination, post-program of study completion, which might prevent the release of a graduate’s name to a respected board of nursing for the purposes of sitting for the national licensure examination.

In response to a question by Co-Chair West, Mr. Hyndman stated that Galen College of Nursing was by far the largest educator of nursing students in Kentucky. Galen College of Nursing’s RN and PN programs both had a ninety-seven (97) percent pass rate for the previous quarter. This administrative regulation prohibited educators from using an externally developed, nationally normed standardized examination as one (1) element of multiple assessments to determine if a student was ready to progress, graduate, and take the national licensure examination. Galen College of Nursing used externally developed, nationally normed standardized examinations, not to determine if a student should sit for the national licensure examination, but to determine if a student needed remedial assistance during progression. A representative from Galen College of Nursing appeared for the board’s public hearing on this administrative regulation; however, that hearing was canceled.

In response to a question by Co-Chair West, Mr. West stated that the public hearing for this

administrative regulation was canceled because, pursuant to KRS Chapter 13A, the board had not received notice that anyone intended to attend. The board did receive written public comments from Galen College of Nursing and included those in the board's Statement of Consideration. This administrative regulation stated that: "a program of nursing shall not require the completion of an external examination as a determinant of the student's progression or graduation. An external examination may be used to assist in the remediation of a student or as part of a final course grade. If used as part of a final course grade, it shall not count for more than ten (10) percent of the grade." This proposal still authorized the use of external examination in accordance with those requirements. Dr. Gamble stated that external examinations, which were purchased from a vendor and were not customized for individual schools or programs, were proprietary; therefore, nursing schools were unaware of the specific content. An external standardized examination could contain content that had not been covered by the nursing program or by a given course. Over twenty-five (25) percent of nursing programs used external standardized examinations to determine progression. Many nursing programs used external standardized examinations, not as an indicator of readiness to sit for the national licensure examination, but to protect the programs' pass rates.

Representative Marzian stated that this administrative regulation established parameters to protect students from failure to progress. Co-Chair West agreed with Representative Marzian and suggested that the board meet with representatives from Galen College of Nursing prior to this administrative regulation moving on through the House and Senate Standing Committees of jurisdiction.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:340. Students in prelicensure registered nurse and practical nurse programs.

201 KAR 20:350. Educational facilities and resources for pre-licensure registered nurse and practical nurse programs.

201 KAR 20:360. Continuing approval and periodic evaluation.

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

201 KAR 20:362. Fines for programs of nursing.

A motion was made and seconded to approve the following amendments: to amend the TITLE; NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 3 to comply with

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

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and 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.

Board of Physical Therapy

201 KAR 22:170. Physical Therapy Compact Commission. Scott Majors, executive director, and Keith Poynter, general counsel, represented the board.

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

301 KAR 1:152 & E. Asian Carp and Scaled Rough Fish Harvest Program. Ron Brooks, director, Fisheries Division; Daniel Schulman, staff attorney; and Karen Waldrop, deputy commissioner, represented the department.

In response to questions by Senator Clark, Mr. Brooks stated that Asian Carp encroachment was well controlled in the Ohio River. Western Kentucky had contracted with the Kentucky Fish Center, which brought in 377,000 pounds of Asian Carp last month. The necessary ice machines were now functional.

301 KAR 1:155. Commercial fishing requirements.

ENERGY AND ENVIRONMENT CABINET:  
Office of Kentucky Nature Preserves

400 KAR 2:060. Definitions. Michael Mullins, regulation coordinator, and Zeb Weese, executive director, represented the office.

In response to a question by Co-Chair West, Mr. Weese stated that provisions for horseback riding were not changing, but horseback riding had been consolidated into the broad category of non-motorized recreation.

In response to a question by Co-Chair Hale, Mr. Weese stated that horseback riding was a subset of the category of non-motorized recreation and the provisions had no practical difference from the previous requirements.

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 and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

400 KAR 2:070. The Office of Kentucky Nature Preserves.

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

400 KAR 2:080. Dedication of nature preserves

and registration of natural areas.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A.

400 KAR 2:090. Management, use, and protection of nature preserves and natural areas.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 3, 6 through 8, 10, and 13 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

400 KAR 2:100. Hearings and appeals.

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

Rare Plant Recognition

400 KAR 3:010. Definitions for 400 KAR Chapter 3.

400 KAR 3:020. Criteria for identifying and designating endangered or threatened species of plants.

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.

400 KAR 3:030. Procedures for inclusion, removal or change of status of plant species on the state endangered or threatened list.

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

400 KAR 3:040. Endangered or threatened plant list.

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

Wild Rivers

400 KAR 4:110. Definitions for 400 KAR Chapter 4.

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



400 KAR 4:125. Wild rivers administration.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 15 to comply with the drafting requirements of KRS Chapter 13A; and (2) to delete Section 16. Without objection, and with agreement of the agency, the amendments were approved.

400 KAR 4:130. Wild rivers change of use permit procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 7 to incorporate a form by reference. Without objection, and with agreement of the agency, the amendments were approved.

400 KAR 4:140. Wild rivers change of use permit standards.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4 through 12, and 14 through 19 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Waste Management: Hazardous Waste

401 KAR 39:060. General requirements. Tony Hatton, commissioner, and Jon Maybriar, director, represented the division.

In response to questions by Co-Chair West, Mr. Maybriar stated that 401 KAR 42:005 through 42:330 did not prohibit contractors from requesting an extension. Extension requests would still be processed based upon the reason the extension was necessary. The extension request process would include deadlines. Mr. Hatton stated that underground storage tanks would be regulated along the same lines as they historically had been over the last twelve (12) to thirteen (13) years. Funding availability was determined by the General Assembly's appropriations process, but there was not specific reason to be concerned that adequate funding would not be available.

In response to questions by Co-Chair Hale, Mr. Maybriar stated that a facility in temporary closure was required to maintain less than one (1) inch of water or product in the underground storage tank and to cathodically protect the tank. If those standards were not met, in order to return to service, the tank may need to undergo a line-pressure test to ensure that the tank would not cause a release to the environment. These facilities tended to be small, rural, and critical to their communities. Mr. Hatton stated that, over time, older tanks tend to have more expensive and complex problems due to technology and regulatory changes. If a release to the environment occurred, the matter would be addressed through funding from the

Petroleum Storage Tank Environmental Assurance Fund. If fuel had been left in the underground storage tanks, there were companies who would remove that fuel at little or no cost. The division also had a program to assist with fuel removal or, for small owners, remove the tanks and fund remediation of the area.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 39:080. Hazardous waste handlers.

401 KAR 39:090. Hazardous waste permit program.

A motion was made and seconded to approve the following amendments: to amend Sections 7 and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Enforcement and Compliance Monitoring

401 KAR 40:051. Repeal of 401 KAR 040:050.

Underground Storage Tanks

401 KAR 42:005. Definitions for 401 KAR Chapter 042.

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.

401 KAR 42:020. UST system requirements, notification, registration, and annual fees.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3, 9 through 11, 14 through 16, 18, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 42:060. UST system release and corrective action requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4 through 6 and 8 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 10 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 42:250. Petroleum Storage Tank Environmental Assurance Fund reimbursement.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 7 through 9, 12, 13, 15, and 19 through 21 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 42:330. Small Owners Tank Removal Account.

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

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

401 KAR 42:341. Repeal of 401 KAR 042:011, 042:030, 042:040, 042:045, 042:050, 042:070, 042:080, 042:090, 042:095, 042:200, 042:290, 042:300, 042:316, 042:320, 042:335, and 042:340.

Office of Kentucky Nature Preserves: General Administrative Procedures

418 KAR 1:010. Definitions for 418 KAR Chapter 1. Michael Mullins, regulation coordinator, and Zeb Weese, executive director, represented the office.

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

418 KAR 1:020. Administrative procedures of the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 4 through 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.

418 KAR 1:040. Grant applications.

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

418 KAR 1:050. Procedures for acquisition of land.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:060. Management.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 4, 6 through 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:070. Remedies.

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

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 1:100. Department of Juvenile Justice Policies and Procedures: Admissions. William Codell, attorney; Tamra Gormley, attorney; and Chris Mann, deputy commissioner of program operations, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph, Section 1, 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.

505 KAR 1:110. Department of Juvenile Justice Policy and Procedures Manual: Program Services.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 and the material incorporated by reference to: (a) align restraint provisions for pregnant youth with Senate Bill 133 from the 2018 Regular Session of the General Assembly; and (b) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

505 KAR 1:180. Department of Juvenile Justice Policy and Procedures Manual: Day Treatment Services.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 and the material incorporated by reference to: (a) align restraint provisions for pregnant youth with Senate Bill 133 from the 2018 Regular Session of the General Assembly; (b) standardize procedures with other departmental policies; and (c) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

505 KAR 1:190. Department of Juvenile Justice Policy and Procedures: Interstate Compact for Juveniles.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph, Section 1, 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.

TRANSPORTATION CABINET: Department of Highways: Division of Construction Procurement: Preconstruction

603 KAR 2:015. Prequalification for construction, certificate of eligibility, and contract claims dispute. Ryan Griffith, engineering director, and Jon Johnson, assistant general counsel, represented the division.

In response to questions by Co-Chair West, Mr. Griffith stated that the division's current claims process required very little information on the front end, putting the division at a disadvantage later in the process. This revision was intended to assist with planning by including more information earlier in the claims dispute process.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 through 5 and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 7 to clarify certificate of eligibility suspension, revocation, and alteration provisions. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Learning Programs Development: Office of Instruction

704 KAR 3:305. Minimum requirements for high school graduation. Deanna Durrett, general counsel; Amanda Ellis, deputy commissioner; and Wayne Lewis, commissioner, represented the office. Dr. Brigitte Ramsey, executive director, Prichard Committee for Academic Excellence, appeared in opposition to this administrative regulation.

In response to questions by Co-Chair West, Mr. Lewis stated that some schools had not lived up to opportunity promises to students because following a school's programs did not necessarily prepare all students for the future, especially minority and low-income students. This administrative regulation represented a first step, but a low bar, toward improvement. This administrative regulation did three (3) things: added flexibility; required basic competence in reading and mathematics, as evidenced by a standardized test that students were already taking or through a portfolio; and required that students meet at least one (1) of eight (8) qualifiers. Only approximately fifteen (15) states required Algebra II for all students for graduation. Kentucky currently required Algebra II for graduation; however, approximately sixty (60) percent of students needed remedial work in mathematics at the post-secondary level. It was unnecessary for all students to successfully complete Algebra II. Basic competence in reading and mathematics was necessary for future success. Assessment examinations were the same as those already given for other purposes.

In response to a question by Co-Chair West, Dr. Ramsey stated that the Prichard Committee for Academic Excellence, like the office, advocated for a more meaningful high school diploma; however, several components of this administrative regulation raised concerns for the committee. The committee was opposed to exit examination requirements for reading and mathematics, requiring students to meet graduation qualifiers, and removing Algebra II as a curriculum requirement. Available research and experience suggested that exit examinations did not have much correlation with future success. The

problem was not with determining which students needed assistance, but which strategies would best achieve results. Graduation qualifiers placed responsibility on students, rather than schools, and raised concerns about equitability. Students could be tracked into low-opportunity pathways. Algebra II was necessary as a curriculum requirement. Kentucky should require higher, not lower, levels of mathematics. Regardless of semantics, the assessments constituted exit examinations. Kentucky students routinely scored in the bottom twenty-five (25) percent in the nation regarding mathematics; therefore, Algebra II requirements should not be lowered; higher levels of mathematics should be required. Early childhood learning in mathematics should be emphasized.

At the January 9, 2019, meeting of the subcommittee, a motion was made and seconded to approve the following amendments: to amend Sections 1 through 5, 7, 8, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Advertising Distilled Spirits and Wine

804 KAR 1:030. Prohibited alcoholic beverage advertisements. Stephen Humphress, general counsel, and Stephen Walters, counsel, represented the department.

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.

Advertising Malt Beverages

804 KAR 2:016. Repeal of 804 KAR 002:015.

ENERGY AND ENVIRONMENT CABINET: Department of Natural Resources: Division of Mine Safety: Miner Training, Education and Certification

805 KAR 7:080. Training, certification, and annual retraining of mine emergency technicians. Michael Mullins, regulation coordinator, and Jim Vicini, division director, represented the division.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Authority: Board of Home Inspectors

815 KAR 6:001. Definitions for 815 KAR Chapter 6. Heather Becker, general counsel, and Mitch Buchanan, former board chair, represented the board. Steve Keeney, vice president, Kentucky Association of Home Inspection Professionals, appeared in opposition to these administrative regulations.

In response to a question by Co-Chair West, Mr. Keeney stated that the Kentucky Association of Home Inspection Professionals was concerned that these administrative regulations were being amended after the public comment period. The

national examination, implicitly established by the amendment, was incongruous with reciprocity goals. This examination should be carefully studied before implementation. Pursuant to statute, forms should be filed electronically, but these administrative regulations did not provide for that. Submitting forms non-electronically was more expensive and time consuming than submitting forms through an electronic filing system. The burdens of these administrative regulations kept Kentucky from having the needed number of home inspectors.

In response to questions by Co-Chair West, Ms. Becker stated that the amendments filed Friday were the typical, staff-suggested amendments, which were not considered at the public hearing because the amendments had not yet been submitted to the board. The board held a special meeting to approve the staff-suggested amendments. The statute regarding electronic submission authorized, but did not require, an e-filing system. The board was working on an electronic submission system, which was not yet ready. The board believed that the administrative regulations would allow use of the electronic filing system once it was operable. Mr. Buchanan agreed that electronic filing was more efficient, which was the board's goal, but an exact implementation date and details were not yet available. The board contacted numerous states regarding matters of reciprocity, but had generally not received responses.

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.

815 KAR 6:010. Licensing requirements.

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; Sections 1, 2, 5, 7 through 9; and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 8 to require the board to comply with KRS Chapter 335B if using an applicant's criminal record as grounds for denial or nonrenewal of a license. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:030. Standards of conduct, complaints, and discipline.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 and 11 to comply with the drafting requirements of KRS Chapter 13A; and; (2) to amend Sections 6 through 10 to clarify and reorganize the board's complaint and disciplinary procedures. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:040. Education requirements and providers.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE, STATUTORY AUTHORITY paragraph, and Sections 1 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to add a new section to establish standards for test provider and examination approval; and (3) to amend Section 1(4) to establish a deadline for preclicensing education providers to request re-approval. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:101. Repeal of 815 KAR 006:020, 815 KAR 006:080, 815 KAR 006:090, and 815 KAR 006:100.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Data and Analytics: Division of Health Information: Kentucky Health Information Exchange

900 KAR 9:010. Kentucky Health Information Exchange participation. Denise Beatty, resource management analyst; Charlese Blair, healthcare data administrator; and Jim Musser, executive director, represented the division.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Section 8 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

907 KAR 1:270. Podiatry program services. Jim Musser, executive director, and Jonathan Scott, regulatory and legislative advisor, represented the department.

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

907 KAR 1:280. Payments for podiatry program services.

907 KAR 1:360. Preventative and remedial public health services.

Division of Protection and Permanency: Child Welfare

922 KAR 1:050. State funded adoption assistance. Laura Begin, regulation coordinator; Mary Carpenter, branch manager, Adoption Branch; Jim Musser, executive director; and Paula Saenz, branch manager, Transitional Services Branch, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for "special needs child;" and (2) to amend Sections 2 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:500. Educational and training vouchers.

922 KAR 1:530. Post-adoption placement

stabilization services.

The following administrative regulations were deferred or removed from the February 11, 2019, subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates

16 KAR 3:090. Certifications for advanced educational leaders.

STATE BOARD OF ELECTIONS: Forms and Procedures

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

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; Corporations

103 KAR 16:151. Repeal of 103 KAR 016:100, 103 KAR 016:110, 103 KAR 016:120, 103 KAR 016:130, 103 KAR 016:145, and 103 KAR 016:150.

103 KAR 16:270. Apportionment; receipts factor.

BOARDS AND COMMISSIONS: Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid disorder.

Board of Physical Therapy

201 KAR 22:070. Requirements for foreign-educated physical therapists and physical therapist assistants.

Board of Licensure for Marriage and Family Therapists

201 KAR 32:110. Telehealth.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

DEPARTMENT OF AGRICULTURE: Office of Agricultural Marketing: Industrial Hemp

302 KAR 50:090. Enforcement, corrective action plans, and mandatory reporting to state and federal agencies, department to retain growing site information for at least three (3) years.

JUSTICE AND PUBLIC SAFETY CABINET: Special Law Enforcement Officers

500 KAR 2:020. Filing and processing SLEO commissions.

500 KAR 2:030. Special law enforcement officers: evaluation examination.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:290. Continuation of medical benefits.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:092. Disclosure of local government taxes and collection fee.

806 KAR 2:100. Disclosure of insurance premium surcharge.

806 KAR 2:121. Repeal of 806 KAR 002:120 and



806 KAR 002:150.  
 Kinds of Insurance; Limits of Risk; Reinsurance  
 806 KAR 5:011. Repeal of 806 KAR 005:010 and  
 806 KAR 005:020.  
 Surplus Lines  
 806 KAR 10:030. Surplus lines reporting and tax  
 payment structure.  
 Kentucky Department of Financial Institutions:  
 Administration  
 808 KAR 1:060. Automated teller machines.  
 808 KAR 1:140. Fees.  
 808 KAR 1:161. Repeal of 808 KAR 001:020,  
 001:050, 001:090, 001:120, 001:130, 001:150, and  
 001:160.  
 808 KAR 1:170. Licensing and registration.  
 808 KAR 1:180. Use of special restricted funds.  
 Credit Unions  
 808 KAR 3:050. Conduct of credit unions.  
 808 KAR 3:061. Repeal of 808 KAR 03:020 and  
 003:060.  
 Industrial Loans  
 808 KAR 5:041. Repeal of 808 KAR 005:040.  
 Consumer Loans  
 808 KAR 6:095. Mandatory availability for  
 repayment.  
 808 KAR 6:121. Repeal of 808 KAR 006:015,  
 006:105, 006:115, and 006:120.  
 Check Cashing  
 808 KAR 9:010. Deferred deposit database  
 compliance.  
 808 KAR 9:031. Repeal of 808 KAR 009:020 and  
 009:030.  
 808 KAR 9:040. Customer account transfers.  
 808 KAR 9:050. Licensee change of control.  
 Multibank Companies  
 808 KAR 11:021. Repeal of 808 KAR 011:020.  
 Mortgage Loan Companies and Mortgage Loan  
 Brokers  
 808 KAR 12:050. Processing and closing charges  
 for real estate loans to consumers.  
 808 KAR 12:055. Uniform standards for  
 mortgage loan processor applicant employee  
 background checks.  
 808 KAR 12:111. Repeal of 808 KAR 012:002,  
 012:021, 012:022, 012:023, 012:024, 012:026, 012:030,  
 and 012:110.  
 Administrative Hearing  
 808 KAR 14:010. Record retention.  
 808 KAR 14:20. Annual reporting.  
 General  
 808 KAR 15:010. Exceptions to bank lending  
 limits.  
 808 KAR 15:020. Stay of notice of intention to  
 remove from office.  
 808 KAR 15:030. Bank branches, offices, and  
 loan production offices.  
 808 KAR 15:040. Multibank companies.  
 Horse Racing Commission: Thoroughbred  
 Racing  
 810 KAR 1:301. Repeal of 810 KAR 001:004, 810  
 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008,

810 KAR 001:009, 810 KAR 001:010, 810 KAR  
 001:012, 810 KAR 001:014, 810 KAR 001:015, 810  
 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018,  
 810 KAR 001:021, 810 KAR 001:024, 810 KAR  
 001:026, 810 KAR 001:027, 810 KAR 001:028, 810  
 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037,  
 810 KAR 001:040, 810 KAR 001:050, 810 KAR  
 001:060, 810 KAR 001:070, 810 KAR 001:080, 810  
 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110,  
 810 KAR 001:130, 810 KAR 001:140, 810 KAR  
 001:145, 810 KAR 001:150, and 810 KAR 001:300.  
 General  
 810 KAR 2:001. Definitions.  
 810 KAR 2:010. Racing commission and  
 administrative staff.  
 810 KAR 2:020. Thoroughbred and flat racing  
 officials.  
 810 KAR 2:030. Chemical dependency.  
 810 KAR 2:040. Stewards.  
 810 KAR 2:050. Judges and Standardbred racing  
 officials.  
 810 KAR 2:060. Owners' authorized agents and  
 jockey agents.  
 810 KAR 2:070. Thoroughbred and other flat  
 racing associations.  
 810 KAR 2:080. Standardbred racing  
 associations.  
 Licensing  
 810 KAR 3:001. Definitions.  
 810 KAR 3:010. Licensing of racing associations.  
 810 KAR 3:020. Licensing of racing participants.  
 810 KAR 3:030. Licensing totalizator companies.  
 810 KAR 3:040. Advance deposit account  
 wagering.  
 810 KAR 3:050. Simulcast facilities.  
 Flat and Steeplechase Racing  
 810 KAR 4:001. Definitions.  
 810 KAR 4:010. Horses.  
 810 KAR 4:020. Weights.  
 810 KAR 4:030. Entries, subscriptions, and  
 declarations.  
 810 KAR 4:040. Running of the race.  
 810 KAR 4:050. Claiming races.  
 810 KAR 4:060. Objections and complaints.  
 810 KAR 4:070. Jockeys and apprentices.  
 810 KAR 4:080. Steeplechase racing.  
 810 KAR 4:090. Owners.  
 810 KAR 4:100. Trainers.  
 Standardbred Racing  
 810 KAR 5:001. Definitions.  
 810 KAR 5:010. Registration and identification  
 of horses.  
 810 KAR 5:020. Eligibility and classification.  
 810 KAR 5:030. Claiming races.  
 810 KAR 5:040. Farm, corporate, or stable name.  
 810 KAR 5:050. Stakes and futurities.  
 810 KAR 5:060. Entries and starters.  
 810 KAR 5:070. Running of the race.  
 810 KAR 5:080. Harness racing and county fairs.  
 Pari-Mutuel Wagering  
 810 KAR 6:020. Calculation of payouts and

distribution of pools.  
 Incentive and Development Funds  
 810 KAR 7:010. Backside improvement fund.  
 810 KAR 7:020. Kentucky thoroughbred  
 breeders' incentive fund.  
 810 KAR 7:030. Kentucky thoroughbred  
 development fund.  
 810 KAR 7:040. Kentucky Standardbred  
 development fund and Kentucky Standardbred  
 breeders' incentive fund.  
 810 KAR 7:060. Kentucky Quarter Horse, Paint  
 Horse, Appaloosa, and Arabian development fund.  
 810 KAR 7:070. Violations, discipline, disputes,  
 and investigation.  
 Medication Guidelines  
 810 KAR 8:010. Medication; testing procedures;  
 prohibited practices.  
 810 KAR 8:020. Drug, medication, and substance  
 classification schedule and withdrawal guidelines.  
 810 KAR 8:030. Disciplinary measures and  
 penalties.  
 810 KAR 8:040. Out-of-competition testing.  
 810 KAR 8:050. International medication  
 protocol as condition of a race.  
 810 KAR 8:060. Post-race sampling and testing  
 procedures.  
 Hearings and Appeals  
 810 KAR 9:010. Hearings, reviews and appeals.  
 Harness Racing  
 811 KAR 1:301. Repeal of 811 KAR 001:010, 811  
 KAR 001:015, 811 KAR 001:020, 811 KAR 001:025,  
 811 KAR 001:030, 811 KAR 001:035, 811 KAR  
 001:037, 811 KAR 001:040, 811 KAR 001:045, 811  
 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060,  
 811 KAR 001:065, 811 KAR 001:070, 811 KAR  
 001:075, 811 KAR 001:080, 811 KAR 001:085, 811  
 KAR 001:090, 811 KAR 001:093, 811 KAR 001:095,  
 811 KAR 001:100, 811 KAR 001:105, 811 KAR  
 001:110, 811 KAR 001:115, 811 KAR 001:120, 811  
 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150,  
 811 KAR 001:185, 811 KAR 001:215, 811 KAR  
 001:220, 811 KAR 001:225, 811 KAR 001:230, 811  
 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285,  
 811 KAR 001:290, and 811 KAR 001:300.  
 Quarter Horse, Paint Horse, Appaloosa, and  
 Arabian Racing  
 811 KAR 2:301. Repeal of 811 KAR 002:015,  
 811 KAR 002:020, 811 KAR 002:030, 811 KAR  
 002:035, 811 KAR 002:040, 811 KAR 002:045, 811  
 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065,  
 811 KAR 002:070, 811 KAR 002:075, 811 KAR  
 002:080, 811 KAR 002:085, 811 KAR 002:090, 811  
 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100,  
 811 KAR 002:105, 811 KAR 002:110, 811 KAR  
 002:130, 811 KAR 002:140, 811 KAR 002:150, 811  
 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185,  
 811 KAR 002:190, 811 KAR 002:200, and 811 KAR  
 002:300.  
 CABINET FOR HEALTH AND FAMILY  
 SERVICES: Office of Inspector General: Division of  
 Certificate of Need

900 KAR 6:075 & E. Certificate of need nonsubstantive review.

Department for Medicaid Services

907 KAR 1:560 & E. Medicaid hearings and appeals regarding eligibility.

907 KAR 1:563 & E. Medicaid covered services appeals and hearings unrelated to managed care.

Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:820 & E. Disproportionate share hospital distributions.

Department for Aging and Independent Living: Division of Operations and Support: Aging Services

910 KAR 1:240. Certification of assisted-living communities.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:055 & E. Hearings and appeals.

Supplemental Nutrition Assistance Program

921 KAR 3:060 & E. Administrative disqualification hearings and penalties.

921 KAR 3:070 & E. Fair hearings.

Division of Protection and Permanency: Child Welfare

922 KAR 1:140. Foster care and adoption permanency services.

922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

922 KAR 1:400. Supporting services.

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

Daycare

922 KAR 2:160 & E. Child Care Assistance Program.

The subcommittee adjourned at 3:05 p.m. The next meeting of the subcommittee is tentatively scheduled for March 11, 2019, at 1 p.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE Minutes**

February 19, 2019

### **Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee was held on Tuesday, February 19, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Christian McDaniel and Robby Mills; Representatives Steve Sheldon and Maria Sorolis.

Guests: Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

Representative Thomas opened the meeting by inviting members, staff, and guests to join him in reciting the Pledge of Allegiance.

### **Approval of Minutes (January 15, 2019)**

A motion was made by Senator Mills to approve the minutes of the January 15, 2018 meeting. The motion was seconded by Representative Sorolis and approved by voice vote.

### **Correspondence and Information Items**

Ms. Halloran reported correspondence and information items. Pursuant to KRS 45A.180(2), the University of Kentucky submitted proposals utilizing the construction management at-risk project delivery method for the Cancer Services and Poultry Research Facility Relocation projects.

Pursuant to KRS 45A.860(3), the Office of the Auditor of Public Accounts submitted reports for six underwriter and/or bond counsel selection committees certifying that the applicable procedural provisions of the Model Procurement Code were met in the procurement process.

Pursuant to KRS 45.812(1), the Bardstown Independent School (Nelson County), Floyd County and Harlan County school districts reported bond issues to finance new projects for which no tax increases were necessary.

### **Project Report from the Finance and Administration Cabinet**

Ms. Tomes reported the Secretary of Finance and Administration Cabinet's approval of a \$243,000 Kentucky Community and Technical College System (KCTCS) Equipment Pool – 2018-2020 purchase, authorized in the 2018-2020 biennial budget bill under Part II(4). The purchased mobile training unit for Elizabethtown Community and Technical College's Workforce Solutions program will be used for short-term, employer requested training.

Ms. Tomes next submitted two new projects. Pursuant to KRS 45.760(7), the Secretary of Finance and Administration Cabinet approved the Department of Highway's purchase of three asset collection vans. Of the \$2,325,000 total cost; \$2,173,600 will be federal funds and \$151,400 will be from the road fund, with toll credits used for the remaining federal match requirement. The vans will utilize various pieces of technology to collect data on the condition of the roads, a requirement of the Federal Highway Administration.

A motion was made by Representative Sheldon to approve the purchase of the asset collection vans, seconded by Senator Girdler, and approved by unanimous roll call vote.

Pursuant to KRS 164A.575(15), the Secretary of the Finance Administration Cabinet has approved the \$2.1 million Mold Remediation and Mechanical Repairs - The Halls project at Kentucky State University (KSU), funded entirely with KSU restricted funds. With the repairs, the 319-bed residence hall

will be ready for occupancy in the fall of 2019.

A motion was made by Representative Sorolis to approve the project, seconded by Senator Girdler, and approved by unanimous roll call vote.

### **Lease Report from the Finance and Administration Cabinet**

Mr. Aubrey submitted a lease modification for the Department of Corrections in Jefferson County. The lease is being modified to accommodate a new district office; increasing the amount of square footage by 5,257 and the number of parking spaces by 17; amortizing \$50,000 of the over \$115,000 in leasehold improvements, with the property owner covering the rest of the fit-up costs; and providing two additional automatic extension periods for a new lease expiration date of June 30, 2026.

In response to queries from Representative Sheldon, Mr. Aubrey said the rental rate for the office space is \$10.92 per square foot.

In response to a query from Senator McDaniel regarding the automatic extension periods, Mr. Aubrey verified that the commonwealth was not obligated to renew the lease.

A motion was made by Senator Girdler to approve the lease modification, seconded by Representative Sheldon, and approved by unanimous roll call vote.

Mr. Aubrey next submitted a lease for the Cabinet for Health and Family Services in Casey County, procured through advertised bid. The lease is for 8,317 square feet at \$15.75 per square foot for a total annual cost of \$130,992.76, through June 30, 2027.

A motion was made by Representative Sheldon to approve the new lease, seconded by Representative Sorolis, and approved by unanimous roll call vote.

Mr. Aubrey reported an emergency lease for the Department of Corrections in Jefferson County for an agency relocation due to a fire. The lease is for 8,929 square feet at \$10.92 per square foot, through June 30, 2019.

### **Report from the Office of Financial Management**

#### **Kentucky Infrastructure Authority**

Ms. Bridwell submitted various loan requests. The City of Lancaster, Garrard County, requested a \$324,000 Clean Water State Revolving Loan Program (Fund A) Planning and Design loan. This [Sanitary Sewer Improvements] project will include two construction contracts for the wastewater treatment plant and collection system, rehabilitating one wastewater pump station and about 29,000 feet of sewer lines. The current water and sewer rates were effective since July 2, 2018 and are due to increase October 1, 2019. The water rate will increase from \$34.93 to \$37.74 for 4,000 gallons. The sewer rate will increase from \$30.08 to \$33.20 for 4,000 gallons. Wholesale water rates, effective since January 10, 2018, are planned to increase from \$2.10 to \$2.49 per 1,000 gallons by July 10, 2021. The term is five years at three percent.

A motion was made by Representative Sheldon to approve the Fund A Planning and Design Loan, seconded by Senator Girdler, and unanimously approved by roll call vote.

A motion was made by Senator Girdler to roll the Drinking Water State Revolving Loan Program (Fund F) loans into one roll call vote, seconded by Representative Sheldon, and approved by voice vote.

The City of Irvine, Estill County, requested a \$1.2 million increase to its current Fund F loan for a \$6.932 million total loan amount [with a \$1.1 million principal forgiveness option] and an extension of the loan term from 20 to 30 years. The increase is due to significantly higher than budgeted [Water Plant Modernization] project bids. The current water and sewer rates were effective since July 1, 2018. Inside the city, the respective water and sewer rates are \$27.80 and \$33.40 for 4,000 gallons. Outside the city, the respective water and sewer rates are \$33.40 and \$39.61 for 4,000 gallons. The interest rate for the loan is .25 percent.

In response to a query from Representative Sorolis, Ms. Bridwell said that the higher than anticipated October 2018 project bids were due to obtaining bids two years after the project design as well as most contractors' risk assessment of steel pricing for rebar and other items.

The City of Burnside, Pulaski County, requested a \$2.227 million Fund F loan with a 50 percent loan principal forgiveness option. The [Burnside Combined Waterline Improvements] project will replace approximately 28,375 linear feet of waterline with six inch PVC waterline, valves, and fire hydrants; resulting in adequate fire protection, reduction of water loss, and a direct connection between the town and the water treatment plant. The current water and sewer rates were effective since July 1, 2018 and are due to increase July 1, 2019. The water rate will increase from \$47.47 to \$52.22 for 4,000 gallons. The sewer rate will increase from \$45.13 to \$49.64 for 4,000 gallons. The term is 30 years at .50 percent.

The Green-Taylor Water District requested a \$564,500 Fund F loan. The [Distribution Upgrades] project will improve water quality by installing mixing stations at four of the district's elevated storage tanks and rehabilitating four pump stations. The loan also will finance another emergency interconnection with the Columbia/Adair County Utilities District. The water rate, effective since August 2018, is \$40.73 for 4,000 gallons. The term is 20 years at two percent.

The City of Cynthiana, Harrison County, requested a \$954,565 Fund F loan. The [New Booster Pump Station] project will install a booster pump station near the existing one million gallon storage tank, increasing the pressure to a minimum of 25 pounds per square inch. Effective July 1, 2019, the water rate, which was effective since January 1, 2016, will increase from \$16.05 to \$19.65 for 4,000 gallons. The sewer rate, effective since September 5, 2017, is \$30.14 for 4,000 gallons. The term is 20 years at .50 percent.

The City of Hardinsburg, Breckinridge County, requested a \$760,280 Fund F loan. The [Harned Pump Station Replacement] project will install a booster pump station and approximately 13,000 linear feet of four inch main to approximately 60 unserved households. The water rate, effective since July 1, 2018, is \$35.24 for 4,000 gallons. The term is 20 years at two percent.

A motion was made by Senator Mills to approve the Fund F Loans, seconded by Representative Sheldon, and approved by unanimous roll call vote.

#### **New Debt Issue**

Mr. Barrow submitted the Eastern Kentucky University (EKU) General Receipts Refunding Bonds, 2019 Series A. The primary credit pledge is the university's general receipts with state intercept program credit enhancement. The estimated savings is 5.4 percent, with the refunding bonds amortized over the original remaining repayment time period of the refunded bonds, approximately 10 years. As with other direct postsecondary debt issues, the issuance will be a competitive transaction with Hilliard Lyons as financial advisor, Dinsmore & Shohl as bond counsel, and U.S. Bank as trustee.

A motion was made by Senator Girdler to approve the new debt issue, seconded by Representative Sorolis, and approved by unanimous roll call vote.

#### **Previously Approved Conduit Debt Issues**

Mr. Barrow next reported two previously approved conduit debt transactions for the Kentucky Housing Corporation (KHC), clarifying that conduit housing transactions do not impact the commonwealth's credit and that developers repay the debt, utilizing KHC for low-income housing tax credits and lower tax-exempt interest rates. The first transaction was KHC's Tax-Exempt Conduit Multifamily Housing Revenue Notes, Series 2018 (SOCAYR Portfolio), which sold in December 2018. The total project cost was \$23.7 million.

The second was KHC's Tax-Exempt Conduit Multifamily Housing Revenue Notes (Puritan Apartments), Series 2018, which also sold in December 2018. The total project cost was \$47.8 million.

#### **School District Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation**

A motion was made by Senator Mills to roll the school district bond issues into one roll call vote, seconded by Senator Girdler, and approved by voice vote.

Mr. Barrow submitted six school district bond issues with School Facilities Construction Commission (SFCC) debt service participation for projects [in the Bellevue Independent (Campbell County), Breathitt County, Covington Independent (Kenton County), Jenkins Independent (Letcher County), Jessamine County, and Marshall County school districts]. The total estimated issuance projected to be \$43.2 million, with around 8.5 percent SFCC participation. With the exception of Breathitt

County, none of the projects required a tax increase. Mr. Barrow also submitted a refunding transaction for the Fulton Independent (Fulton County) School District. The refunding issuance is anticipated to be just over \$700,000, producing positive savings, with 2.2 percent SFCC participation.

A motion was made by Senator Mills to approve the school district bond issues, seconded by Representative Sheldon, and approved by unanimous roll call vote.

With there being no further business the meeting adjourned at 10:29 a.m.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the March Meeting**

March 11, 2019

#### **Call to Order and Roll Call**

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 11, 2019, at 1:00 PM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

#### **Present were:**

Members: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senator Alice Forgy Kerr; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Emily Dennis, John Steffen, Registry of Election Finance; Todd Renner, Department of Revenue; Mike West, Board of Nursing; Scott Majors, Board of Physical Therapy; Tony Cotto, Jason Smith, Cindy Stinnett, Boxing and Wrestling Commission; Bryan Morrow, Board of Licensure for Marriage and Family Therapist; Steven Fields, Rich Storm, Karen Waldrop, Department of Fish and Wildlife Resources; Dana Feldman, Clint Quarles, Michael Williams, Department of Agriculture; Amy Barker, Justice Cabinet; William Codell, Department of Juvenile Justice; Brian Black, Kristi Redmon, Labor Cabinet; B. Dale Hamblin, Robert Swisher, Department of Workers' Claims; Joe Donohue, Charles Vice, Department of Financial Institutions; David Trimble, Department of Professional Licensing; Jonathan Scott, Department for Medicaid Services; Shannon Gadd, Janet Hall, Department for Aging and Independent Living; Laura Begin, Leitha Harris, Todd Trapp, Department for Community Based Services; Bruce Linder, Kentucky Association of Health Care Facilities.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Monday, March 11, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

DEPARTMENT OF STATE: Kentucky Registry of Election Finance: Reports and Forms



32 KAR 1:050 & E. Political organization registration. Emily Dennis, general counsel, and John Steffen, executive director, represented the registry.

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

32 KAR 1:070 & E. Waiver from filing candidate election finance statement.

FINANCE AND ADMINISTRATION  
CABINET: Department of Revenue: Income Tax; Corporations

103 KAR 16:151. Repeal of 103 KAR 016:100, 103 KAR 016:110, 103 KAR 016:120, 103 KAR 016:130, 103 KAR 016:145, and 103 KAR 016:150. Todd Renner, executive director, Office of Tax Policy and Regulation, represented the department.

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

103 KAR 16:270. Apportionment; receipts factor.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 and 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 7 to clarify that this administrative regulation shall apply to tax periods beginning on or after January 1, 2018. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid disorder. Mike West, general counsel, represented the board.

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

Board of Physical Therapy

201 KAR 22:070. Requirements for foreign-educated physical therapists and physical therapist assistants. Scott Majors, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend: (1) Section 3 to establish additional requirements for a foreign-educated physical therapist assistant; and (2) Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement

of the agency, the amendments were approved.

Boxing and Wrestling Commission

201 KAR 27:005. Definitions for 201 KAR Chapter 027. Jason Smith, commissioner, and Cindy Stinnett, executive director, represented the commission.

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

201 KAR 27:008. License requirements and fees.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) Section 10 to revise the Physical Report. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 027:011. General requirements for boxing and kickboxing shows.

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 2, 7, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:016. General requirements for mixed martial arts matches, shows, or exhibitions.

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 2, 4, 16, and 18 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 27:020. Tickets.

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

201 KAR 27:022. Repeal of 201 KAR 027:017.

Board of Licensure for Marriage and Family Therapists

201 KAR 32:110. Telehealth. Bryan Morrow, counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2 through 6, and 8 to comply with

the drafting requirements of KRS Chapter 13A; (2) Section 1 to add a definition for “telehealth;” and (3) Section 4 to establish that the client’s identity shall be verified by a valid photo identification. 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 2:095 & E. Importation of cervid carcasses and parts. Gabe Jenkins, deer and elk coordinator; Rich Storm, commissioner; and Karen Waldrop, deputy commissioner, represented the department.

DEPARTMENT Of AGRICULTURE: Office of Consumer and Environmental Protection: Agricultural Pest Control

302 KAR 27:010. Definitions for 302 KAR Chapter 027. Dana Feldman, executive director; Clint Quarles, counsel; and Michael Williams, director, Division of Environmental Services, represented the office.

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

302 KAR 27:020. General provisions.

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

302 KAR 27:031. Repeal of 302 KAR 027:030.

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

302 KAR 27:040. Prison inmates.

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

302 KAR 27:050. Certification.

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

302 KAR 27:060. Fine schedule for violation of KRS 217B.120.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) Sections 2 and 3 to revise fees in order to comply with minimum and maximum fee standards as established in KRS 217B.990. Without objection, and with agreement of the agency, the amendments were approved.

Ornamental Turf Lawn and Interior Plantscape Pest Control

302 KAR 28:010. Definitions for 302 KAR Chapter 028.

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

302 KAR 28:020. General provisions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 28:030. Ornamental and interior plantscape posting.

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

302 KAR 28:040. Prison inmates.

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

302 KAR 28:050. Certification.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the RELATES TO paragraph, and 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.

302 KAR 28:060. Fine schedule for violation of KRS 217B.120.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; (2) to delete Section 5 because the form previously incorporated by reference is already incorporated by reference in another administrative

regulation; and (3) to amend Section 2 to revise fees in order to comply with minimum and maximum fee standards as established in KRS 217B.990. Without objection, and with agreement of the agency, the amendments were approved.

Office of Agricultural Marketing: Industrial Hemp

302 KAR 50:090. Enforcement, corrective action plans, and mandatory reporting to state and federal agencies, department to retain growing site information for at least three (3) years.

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

Weights and Measures

302 KAR 85:010. Requirements to establish fee schedules for calibrations, adjustments, weights, and measures.

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

JUSTICE AND PUBLIC SAFETY CABINET: Special Law Enforcement Officers

500 KAR 2:020. Filing and processing SLEO commissions. Amy Barker, assistant general counsel, represented the cabinet.

In response to questions by Co-Chair West, Ms. Barker stated that commission revocation provisions were not being amended. This administrative regulation clarified statutory criteria, including first aid, CPR, and firearm proficiency. Additionally, this administrative regulation allowed the secretary to appoint a designee pertaining to this program.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 1 through 4, 7, 8, and 11 through 15; and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) Section 4(1) to specify the required CPR training; (3) Section 4(2) to allow fingerprinting at local law enforcement offices; (4) Section 9(1) to establish procedures for an applicant to obtain approval for training already completed; and (5) Section 9(2) to establish standards for demonstrating proficiency with firearms and first aid. Without objection, and with agreement of the agency, the amendments were approved.

Department of Juvenile Justice: Child Welfare

505 KAR 1:080. Kentucky Educational Collaborative for state agency children. William Codell, attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2,

and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

803 KAR 2:320. Toxic and hazardous substances. Brian Black, occupational safety and health standards specialist, and Kristi Redmon, occupational safety and health standards specialist, represented the division.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the STATUTORY AUTHORITY paragraph, and 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.

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

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and 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.

Department of Workers' Claims

803 KAR 25:290. Continuation of medical benefits. Dale Hamblin, Jr., assistant general counsel, and Robert Swisher, commissioner, represented the department.

In response to questions by Co-Chair West, Mr. Swisher stated that House Bill 2 from the 2018 Regular Session of the General Assembly limited medical benefits for most claims of permanent partial disability from lifetime benefits to 780 weeks from the date of injury or last exposure. This administrative regulation established the process to track claimants and to notify claimants of impending benefits termination at 754 weeks and the right of claimants to file an application for continuation. This administrative regulation also established the processing procedure for applications of continuation and the process for administrative hearings and appeals. Claimants were required to keep a current address on file with the department. Claimants would be notified by mail and, if applicable, email as benefits termination approached. The department used standard mail, rather than certified mail, due to projected future costs and because claimants often rejected certified mail.

In response to questions by Co-Chair Hale, Mr. Swisher stated that the department would notify claimants by mail and, if applicable, email approximately twenty-six (26) weeks prior to the termination of benefits.

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

of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Kentucky Department of Financial Institutions: Administration  
808 KAR 1:060. Automated teller machines. Joe Donohue, general counsel, and Charles Vice, commissioner, represented the department.

In response to a question by Co-Chair West, Mr. Donohue stated that this package of administrative regulation streamlined and reorganized, but did not substantively change, requirements.

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

808 KAR 1:140. Fees.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 5, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) Section 2 to establish that the hourly fee for examiners shall be forty-two (42) dollars rather than fifty-five (55) dollars for licensees that are not a state chartered bank or trust company. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 1:161. Repeal of 808 KAR 001:020, 001:050, 001:090, 001:120, 001:130, 001:150, and 001:160.

808 KAR 1:170. Licensing and registration.

A motion was made and seconded to approve the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY 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.

Credit Unions

808 KAR 3:050. Conduct of credit unions.

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

808 KAR 3:061. Repeal of 808 KAR 00:020 and 003:060.

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

Industrial Loans

808 KAR 5:041. Repeal of 808 KAR 005:040.

Consumer Loans

808 KAR 6:095. Mandatory availability for

repayment.

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

808 KAR 6:121. Repeal of 808 KAR 006:015, 006:105, 006:115, and 006:120.

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

Check Cashing

808 KAR 9:010. Deferred deposit database compliance.

808 KAR 9:031. Repeal of 808 KAR 009:020 and 009:030.

808 KAR 9:040. Customer account transfers.

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

808 KAR 9:050. Licensee change of control.

Multibank Companies

808 KAR 11:021. Repeal of 808 KAR 011:020.

Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:050. Processing and closing charges for real estate loans to consumers.

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

808 KAR 12:055. Uniform standards for mortgage loan processor applicant employee background checks.

808 KAR 12:111. Repeal of 808 KAR 012:002, 012:021, 012:022, 012:023, 012:024, 012:026, 012:030, and 012:110.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to: (1) remove a regulatory citation erroneously listed among those to be repealed; and (2) comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Administrative Hearing

808 KAR 14:010. Record retention.

A motion was made and seconded to approve the following amendments: to amend: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 5 to comply

with the drafting and formatting requirements of KRS Chapter 13A; and (2) Section 5 to add material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 14:020. Annual reporting.

General

808 KAR 15:010. Exceptions to bank lending limits.

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

808 KAR 15:020. Stay of notice of intention to remove from office.

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

808 KAR 15:030. Bank branches, offices, and loan production offices.

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

808 KAR 15:040. Multibank companies.

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

Department of Professional Licensing: Athlete Agent Registry

830 KAR 2:010. Registration and Fees. David Trimble, general counsel, represented the registry.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services

907 KAR 1:560 & E. Medicaid hearings and appeals regarding eligibility. Jonathan Scott, regulatory and legislative advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2, 5, 6, 9, 10, and 19 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:563 & E. Medicaid covered services appeals and hearings unrelated to managed care.

A motion was made and seconded to approve



the following amendment: to amend Section 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Department for Aging and Independent Living: Division of Operations and Support

910 KAR 1:240. Certification of assisted-living communities. Shannon Gadd, commissioner, and Janet Hall, director, represented the division. Bruce Linder, executive vice president, Kentucky Association of Health Care Facilities and Kentucky Center for Assisted Living, appeared in support of a proposed amendment to this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Linder stated that the division worked with the Kentucky Association of Health Care Facilities and Kentucky Center for Assisted Living to develop a proposed amendment to this administrative regulation. Ms. Gadd and Ms. Hall agreed to the proposed amendment, which allowed the 2019 annual certification fee to be made in payments over a six (6) month period if there was a documented hardship and if approved by the cabinet.

In response to questions by Co-Chair West, Ms. Gadd stated that fees were established in 2000 and only currently covered approximately one-third (1/3) of expenses. This administrative regulation raised fees to cover processing costs per assisted-living unit.

A motion was made and seconded to approve the following amendments: to amend: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 3, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) Section 3 to allow the 2019 annual certification fee to be made in payments over a six (6) month period if there was a documented hardship and if approved by the cabinet. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:055 & E. Hearings and appeals. Laura Begin, regulation coordinator; Leitha Harris, branch manager; and Todd Trapp, assistant director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 4 and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Supplemental Nutrition Assistance Program

921 KAR 3:060 & E. Administrative disqualification hearings and penalties.

921 KAR 3:070 & E. Fair hearings.

Other Business: Co-Chair Hale introduced and welcomed Representative Deanna Frazier as a new member of the subcommittee. Representative Frazier, from the eighty-first district in Madison County, stated that she was an audiologist and mother of two (2) sons.

The following administrative regulations were deferred or removed from the March 11, 2019, subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates

16 KAR 3:090. Certifications for advanced educational leaders.

STATE BOARD OF ELECTIONS: Forms and Procedures

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

FINANCE AND ADMINISTRATION: Teachers' Retirement System: General Rules

102 KAR 1:060. Refunds.

102 KAR 1:163. Collection of life insurance benefits.

102 KAR 1:168. Survivor's benefits.

102 KAR 1:320. Qualified domestic relations orders.

Department for Facilities and Support Services: State-Owned Buildings and Grounds

200 KAR 3:020 & E. Use of State-owned facilities and grounds.

BOARDS AND COMMISSIONS: Board of Medical Licensure

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

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

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

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

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

601 KAR 2:030 & E. Ignition interlock.

PUBLIC PROTECTION CABINET: Kentucky Claims Commission: Tax Appeals

802 KAR 1:010. Tax appeal procedures.

LABOR CABINET: Department of Workplace Standards: Department of Workers' Claims

803 KAR 25:270 & E. Pharmaceutical formulary.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:092. Disclosure of local government taxes and collection fee.

806 KAR 2:100. Disclosure of insurance premium surcharge.

806 KAR 2:121. Repeal of 806 KAR 002:120 and 806 KAR 002:150.

Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020.

Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

PUBLIC PROTECTION CABINET: Kentucky

Department of Financial Institutions

808 KAR 1:180. Use of special restricted funds.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:301. Repeal of 810 KAR 001:004, 810 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008, 810 KAR 001:009, 810 KAR 001:010, 810 KAR 001:012, 810 KAR 001:014, 810 KAR 001:015, 810 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018, 810 KAR 001:021, 810 KAR 001:024, 810 KAR 001:026, 810 KAR 001:027, 810 KAR 001:028, 810 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037, 810 KAR 001:040, 810 KAR 001:050, 810 KAR 001:060, 810 KAR 001:070, 810 KAR 001:080, 810 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110, 810 KAR 001:130, 810 KAR 001:140, 810 KAR 001:145, 810 KAR 001:150, and 810 KAR 001:300.

General

810 KAR 2:001. Definitions.

810 KAR 2:010. Racing commission and administrative staff.

810 KAR 2:020. Thoroughbred and flat racing officials.

810 KAR 2:030. Chemical dependency.

810 KAR 2:040. Stewards.

810 KAR 2:050. Judges and Standardbred racing officials.

810 KAR 2:060. Owners' authorized agents and jockey agents.

810 KAR 2:070. Thoroughbred and other flat racing associations.

810 KAR 2:080. Standardbred racing associations.

Licensing

810 KAR 3:001. Definitions.

810 KAR 3:010. Licensing of racing associations.

810 KAR 3:020. Licensing of racing participants.

810 KAR 3:030. Licensing totalizator companies.

810 KAR 3:040. Advance deposit account wagering.

810 KAR 3:050. Simulcast facilities.

Flat and Steeplechase Racing

810 KAR 4:001. Definitions.

810 KAR 4:010. Horses.

810 KAR 4:020. Weights.

810 KAR 4:030. Entries, subscriptions, and declarations.

810 KAR 4:040. Running of the race.

810 KAR 4:050. Claiming races.

810 KAR 4:060. Objections and complaints.

810 KAR 4:070. Jockeys and apprentices.

810 KAR 4:080. Steeplechase racing.

810 KAR 4:090. Owners.

810 KAR 4:100. Trainers.

Standardbred Racing

810 KAR 5:001. Definitions.

810 KAR 5:010. Registration and identification of horses.

810 KAR 5:020. Eligibility and classification.

810 KAR 5:030. Claiming races.

810 KAR 5:040. Farm, corporate, or stable name.

810 KAR 5:050. Stakes and futurities.  
810 KAR 5:060. Entries and starters.  
810 KAR 5:070. Running of the race.  
810 KAR 5:080. Harness racing and county fairs.  
Pari-Mutuel Wagering  
810 KAR 6:020. Calculation of payouts and distribution of pools.  
Incentive and Development Funds  
810 KAR 7:010. Backside improvement fund.  
810 KAR 7:020. Kentucky thoroughbred breeders' incentive fund.  
810 KAR 7:030. Kentucky thoroughbred development fund.  
810 KAR 7:040. Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund.  
810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund.  
810 KAR 7:070. Violations, discipline, disputes, and investigation.  
Medication Guidelines  
810 KAR 8:010. Medication; testing procedures; prohibited practices.  
810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.  
810 KAR 8:030. Disciplinary measures and penalties.  
810 KAR 8:040. Out-of-competition testing.  
810 KAR 8:050. International medication protocol as condition of a race.  
810 KAR 8:060. Post-race sampling and testing procedures.  
Hearings and Appeals  
810 KAR 9:010. Hearings, reviews and appeals.  
Harness Racing  
811 KAR 1:301. Repeal of 811 KAR 001:010, 811 KAR 001:015, 811 KAR 001:020, 811 KAR 001:025, 811 KAR 001:030, 811 KAR 001:035, 811 KAR 001:037, 811 KAR 001:040, 811 KAR 001:045, 811 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060, 811 KAR 001:065, 811 KAR 001:070, 811 KAR 001:075, 811 KAR 001:080, 811 KAR 001:085, 811 KAR 001:90, 811 KAR 001:093, 811 KAR 001:095, 811 KAR 001:100, 811 KAR 001:105, 811 KAR 001:110, 811 KAR 001:115, 811 KAR 001:120, 811 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150, 811 KAR 001:185, 811 KAR 001:215, 811 KAR 001:220, 811 KAR 001:225, 811 KAR 001:230, 811 KAR 001:240, 811 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285, 811 KAR 001:290, and 811 KAR 001:300.  
Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing  
811 KAR 2:301. Repeal of 811 KAR 002:015, 811 KAR 002:020, 811 KAR 002:030, 811 KAR 002:035, 811 KAR 002:040, 811 KAR 002:045, 811 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065, 811 KAR 002:070, 811 KAR 002:075, 811 KAR 002:080, 811 KAR 002:085, 811 KAR 002:090, 811 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100, 811 KAR 002:105, 811 KAR 002:110, 811 KAR

002:130, 811 KAR 002:140, 811 KAR 002:150, 811 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185, 811 KAR 002:190, 811 KAR 002:200, and 811 KAR 002:300.  
CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: Certificate of Need  
900 KAR 6:075 & E. Certificate of need nonsubstantive review.  
Office of Health Data and Analytics: Division of Analytics: Data Reporting and Public Use Data Sets  
900 KAR 7:030. Data reporting by health care providers.  
Division of Health Benefit Exchange: Kentucky Health Benefit Exchange  
900 KAR 10:021. Repeal of 900 KAR 010:010, 900 KAR 010:020, and 900 KAR 010:110.  
Department for Medicaid Services: Division of Policy and Operations  
907 KAR 1:604 & E. Recipient cost-sharing. Payments and Services  
907 KAR 3:170. Telehealth service coverage and reimbursement.  
Division of Program Integrity  
907 KAR 5:005. Health Insurance Premium Payment (HIPPP) Program.  
Division of Fiscal Management: Hospital Service Coverage and Reimbursement  
907 KAR 10:820 & E. Disproportionate share hospital distributions.  
Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Behavioral Health: Substance Abuse  
908 KAR 1:341. Repeal of 908 KAR 001:340.  
908 KAR 1:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities.  
908 KAR 1:372. Licensure of residential alcohol and other drug treatment entities.  
908 KAR 1:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities.  
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.  
Division of Protection and Permanency: Child Welfare  
922 KAR 1:140. Foster care and adoption permanency services.  
922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.  
922 KAR 1:400. Supporting services.  
922 KAR 1:565. Service array for a relative or fictive kin caregiver.  
Daycare  
922 KAR 2:160 & E. Child Care Assistance Program.  
The subcommittee adjourned at 1:45 p.m. The next meeting of the subcommittee is tentatively scheduled for April 9, 2019, at 1 p.m.

## CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

### Minutes

March 12, 2019

#### Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee was held on Tuesday, March 12, 2019, at 8:00 AM, in Room 169 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senator Robby Mills; Representatives Steven Rudy, Steve Sheldon, and Maria Sorolis.

Guests: Jordan Smith, Director of Government and Institutional Relations, Murray State University; Jason Youngblood, Associate Director of Facilities Management, Murray State University; Donna McNeil, Executive Director, Kentucky Infrastructure Authority; Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

#### Approval of Minutes (February 19, 2019)

A motion was made by Representative Rudy to approve the minutes of the January 15, 2018 meeting. The motion was seconded by Senator Mills and approved by voice vote.

#### Information Item

Ms. Halloran stated that, pursuant to KRS 45.760(5), the University of Kentucky reported the purchase of a \$1.7 million CT Navigation System for Chandler Hospital with cash restricted funds.

#### Project Report from Murray State University

Mr. Smith submitted the Blackburn Science Building Renovation project and referenced the supporting documentation.

Representative Thomas thanked Mr. Smith and Mr. Youngblood for traveling to present on the much needed project for Murray State University.

A motion was made by Representative Rudy to approve the Blackburn Science Renovation project, seconded by Representative Thomas, and approved by unanimous roll call vote.

#### Report from the Office of Financial Management

##### Kentucky Infrastructure Authority

Ms. McNeil submitted three Clean Water State Revolving Loan Program (Fund A) loan requests. A motion was made by Representative Thomas to roll those requests into one roll call vote, seconded by Representative Sheldon, and approved by voice vote.

The City of LaCenter, Ballard County, requested a \$1,050,049 Fund A loan with \$525,025, 50 percent, principal forgiveness for the Wastewater Treatment Plant Upgrade and I/I Reduction project. The project, co-funded with a \$1 million Community Development



Block Grant, will upgrade the wastewater treatment plant and reduce collection system infiltration and inflow. The system is under an agreed order with the Kentucky Division of Water (DOW) for not meeting its permit limits. The water and sewer rates, in effect since March 14, 2017, will increase April 1, 2019 and the new ordinance has a Consumer Price Index (CPI) clause. For 4,000 gallons, the new monthly water and sewer rates will be \$37.20 each. The current respective monthly water and sewer rates are \$36.66 and \$35.63. The term is 30 years at .50 percent.

The City of Burkesville, Cumberland County, requested a \$251,000 Fund A Planning and Design loan for the Wastewater Treatment Plant Improvements project. The planning and design portion is to evaluate the plant, identifying the needed improvements. Effective since October 19, 2018, for 4,000 gallons, the respective monthly water and sewer rates are \$31.41 and \$32.65. The term is five years at three percent.

The City of Bardstown, Nelson County, requested a \$5.4 million Fund A loan for the Rowan County Sewer Upgrade project. The project, co-funded with a \$1.6 million Economic Development Grant, will mitigate sanitary sewer overflows and hydraulic overloading during wet weather events in a high growth area. The improvements include the replacement of a .75 million with a 3.5 million gallon per day pump station, upgrade of 17,000 linear feet of 12 inch to 36 inch sewer lines, and addition of mechanical screening facilities at the wastewater treatment plant. Effective since July 3, 2011, for 4,000 gallons, the respective inside and outside city monthly water rates are \$17.09 and \$21.97. Effective since September 1, 2011, for 4,000 gallons, the respective inside and outside city monthly sewer rates are \$25.93 and \$30.16. The term is 20 years at two percent.

A motion was made by Representative Thomas to approve the three Fund A loans, seconded by Representative Sheldon, and approved by unanimous roll call vote.

#### **New Debt Issue**

Mr. Barrow submitted the estimated \$13.75 million State Property and Buildings Commission (SPBC) Revenue Refunding Bonds, Project 121. This transaction will refund the outstanding SPBC Project No. 93 bonds for an estimated present value savings of \$1.56 million, 10.5 percent. The committee's approval would be contingent upon SPBC approval.

A motion was made by Representative Rudy to approve the SPBC bond issue, contingent upon SPBC approval, seconded by Representative Sheldon, and approved by unanimous roll call vote.

#### **Previously Approved Debt Issue**

Mr. Barrow reported the \$13.9 million University of Kentucky General Receipts Refunding Bonds, 2019 Series A, which had a true interest cost of roughly 1.9 percent and a present value savings of about \$1.17 million, 7.85 percent.

**School District Bond Issues with School Facilities Construction Commission (SFCC) Debt**

#### **Service Participation**

A motion was made by Representative Thomas to roll the school district bond issues into one roll call vote, seconded by Senator Mills, and approved by voice vote.

Mr. Barrow submitted six school district bond issues with School Facilities Construction Commission (SFCC) debt service for new projects in the [Clay County, Greenup County, Jackson County, Johnson County, Mayfield Independent (Graves County), and McCracken County school districts]. Five of the six bond issues did not require a tax increase. Clay County did pass the recallable nickel, used for school district infrastructure debt service, in 2017. For the six transactions, the total estimated issuance is about \$66.5 million, with SFCC participation around \$8.75 million, 13.2 percent. Mr. Barrow also submitted a refunding bond issue, generating net present value savings, for the Magoffin County School District, noting that school district transactions for new projects greatly outnumber refunding transactions. SFCC debt service participation will cover just over \$3 million of the issuance amount.

A motion was made by Representative Rudy to approve the school district bond issues, seconded by Senator Mills, and approved by unanimous roll call vote.

With there being no further business the meeting adjourned at 8:15 a.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

March 11, 2019

#### **Call to Order and Roll Call**

The Government Contract Review Committee met on Monday, March 11, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; and Senator Paul Hornback; Representatives Charles Booker and Chris Fugate.

Guests: Jennifer Moore, Kelley Webb, Tom Stratton, Rachele Johnson, Greg Woosley, Terril Martin, Mike Schutze, Laura Hagan, Michael Schwendau, Natalie Kelly, and Dave Gutierrez.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

#### **FEBRUARY DEFERRED ITEMS:**

#### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Staff Care, Inc., 1900003333. Tom Stratton, Kelley Webb, and Jennifer Moore discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Lee seconded the motion, which passed without objection.

#### **KENTUCKY STATE UNIVERSITY**

Monica Ray, 19-17. Rachele Johnson discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Meredith to approve Minutes of the February 2019, meeting of the committee. Representative Booker seconded the motion, which passed without objection.

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

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

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

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

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

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

#### **BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

Bluegrass.org, 1900003441.

#### **BOARD OF EXAMINERS OF PSYCHOLOGISTS**

Melissa F. Hall, 1900003415.

#### **DEPARTMENT FOR NATURAL RESOURCES**

Tichenor and Associates, 1900003275.

#### **DEPARTMENT OF EDUCATION**

Jim Shipley & Associates, 1900003511.



DEPARTMENT OF MILITARY AFFAIRS

Federal Resources Supply Company, 1900002892; Safe Transportation Training Specialists, LLC, 1900003414; Joe Mario Davis, 1900003536.

FACILITIES & SUPPORT SERVICES

Patrick D. Murphy Company, Inc., 1900003447; CMTA, Inc., 1900003502.

FINANCE - OFFICE OF THE SECRETARY

Dunn Law, PLLC, 1900003525.

KENTUCKY EMPLOYERS MUTUAL INSURANCE

Hanna Resource Group, 19-HRG-002.

KENTUCKY STATE POLICE

John Kearns, 1900003547.

KENTUCKY STATE UNIVERSITY

Strategic Results Assistance Group, LLC, 19-20.

KY HOUSING CORPORATION

McBrayer, McGinnis, Leslie & Kirkland, PLLC, 2020-1; Septtimous Tayler PSC, 2020-2; Stierle and Rettig, PLLC, 2020-3; Hanna Resource Group, 2020-4; Crowe LLP, f/d/a Crowe Horwath LLP, 2020-5.

MURRAY STATE UNIVERSITY

Dean Dorton Allen Ford, PLLC, 019-19.

NORTHERN KENTUCKY UNIVERSITY

Messer Construction Company, 2019-132; Isaacson Miller, Inc., 2019-133.

UNIVERSITY OF KENTUCKY

CMTA, Inc., A191150; JRA Architects, A191160; Witt Kieffer, K19-235.

UNIVERSITY OF LOUISVILLE

Ignew, LLC d/b/a Slingshot, 19-078.

WESTERN KENTUCKY UNIVERSITY

Multi, 181937.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

NKY Med Clinic, 1900000703.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

Stantec Consulting Services, Inc., 1600001285; Aecom Technical Services, Inc., 1600001323.

**DEPARTMENT FOR PUBLIC HEALTH**

Stephen Gobel DDS of Bionsights Consulting, 1900000406; Multi, 1900001127; Multi, 1900001166; Multi, 1900001304.

DEPARTMENT OF HIGHWAYS

GRW Engineers, Inc., 0700006362; Municipal Engineering Company, 1200000645; T.H.E. Engineers, Inc., 1300002985; URS Corporation, 1600000934; HDR Engineering, Inc., 1600000936; Michael Baker International, Inc., 1700001321; Palmer Engineering County, 1800002021; American Engineers, Inc., 1900003504; Gresham Smith and Partners, C-05260813.

EASTERN KENTUCKY UNIVERSITY

Crowe Horwath, LLP, 20-095; Kentucky School Boards Association, 20-132.

FACILITIES & SUPPORT SERVICES

EOP Architects, PSC, 1500000584; Omni Architects, 1500000941; Ross Tarrant Architects, Inc., 1500001017; Sherman Carter Barnhart, 1500001025; EOP Architects, PSC, 1500001370; Ross Tarrant Architects, Inc., 1800000590; Ross Tarrant Architects, Inc., 1800001197; EOP Architects, PSC, 1800001295; CMTA, Inc., 1900002342.

KENTUCKY EMPLOYERS MUTUAL INSURANCE

US-Reports, Inc. d/b/a Afirm, 19-AFM-001; Dinsmore & Shohl, LLP, 19-DAS-001; Overland Solutions, Inc., 19-OSI-001.

KENTUCKY LOTTERY CORPORATION

Blue & Company, 19-18-046.

KENTUCKY RETIREMENT SYSTEMS

Roland P. Merkel, 1900001631.

KENTUCKY STATE POLICE

Kevin Rogers, 1900001704; Jonathan Blevins, 1900002154; Jeffrey L. Jacobs, 1900002947; James M. Taylor, 1900003029; Kelly Anderson, 1900003034; Steven L. Oliver, 1900003269.

KY HOUSING CORPORATION

Regulatory Solutions, LLC, 2019-4.

PERSONNEL - OFFICE OF THE SECRETARY

Premise Health Employer Solutions, LLC, 1800002019.

UNIVERSITY OF KENTUCKY

SSR Cx, LLC, A161190; THP Limited, Inc., A181150.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS**

Morehead State University, 1900003292.

**ATTORNEY GENERAL**

Justice Cabinet, 1900003377.

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 1900003238.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

Madison County, 1900000840-1; Ohio River Valley Water Sanitation Commission, 1900003103.

**DEPARTMENT FOR LIBRARIES & ARCHIVES**

Robertson County Public Library, 1900002749; Bell County Public System, 1900003369.

**DEPARTMENT FOR LOCAL GOVERNMENT**

Kentucky Highlands Investment Corporation, 1900003260; Gateway Area Development District, 1900003299; Cumberland County Fiscal Court, 1900003314; City of Booneville, 1900003428; City of Sturgis, 1900003429; City of Sturgis, 1900003472; Carroll County Fiscal Court, 1900003503; City of Stanton, 1900003535.

**DEPARTMENT FOR PUBLIC HEALTH**

University of Louisville Research Foundation, 1900003155; University of Kentucky Research Foundation, 1900003156.

**DEPARTMENT FOR WORKFORCE INVESTMENT**

Department for Aging and Independent Living, 1900002848; University of Kentucky Research Foundation, 1900003028; Kentucky Community and Technical College System, 1900003449.

**DEPARTMENT OF EDUCATION**

Madison County Board of Education, 1900000441-1; Kentucky Community and Technical College System, 1900002174; Office of Employer and Apprenticeship Services, 1900003409.

**DEPARTMENT OF MILITARY AFFAIRS**

University of Kentucky Research Foundation, 1900003420; Oldham County Fiscal Court, 1900003445.

**ECON DEV - OFFICE OF THE SECRETARY**

University of Kentucky Research Foundation, 1900003442.

**KY HOUSING CORPORATION**

University of Kentucky Research Foundation, 1.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 1700002889; Centerstone of Kentucky, Inc., 1800000550; University of Kentucky Research

Foundation, 1800002012; Young People In Recovery, 1900000704.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING  
Multi, 1900000798.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
Hands & Voices of Kentucky, 1800001155; Home of the Innocents, 1800002123; Knowledge Center On Deafness, 1900001575.

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Community Action Kentucky, Inc., 1800001787-1; Multi, 1800001929.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES  
Northern Kentucky Cooperative for Educational Services, Inc., 1900001066; Multi, 1900002169.

DEPARTMENT FOR LOCAL GOVERNMENT  
City of Albany, 1800001008; Bell County, 1900002404.

DEPARTMENT FOR PUBLIC HEALTH  
University of Louisville Research Foundation, 1800001695; University of Kentucky Research Foundation, 1800001733; Eastern Kentucky University, 1800001920; T.J. Samson Community Hospital, 1900002457.

DEPARTMENT FOR WORKFORCE INVESTMENT  
Greater Louisville Workforce Development Board, Inc., 1900000761.

DEPARTMENT OF AGRICULTURE  
Multi, 1900003210.

DEPARTMENT OF EDUCATION  
Eastern Kentucky University, 1900000505; Jefferson County Board of Education, 1900001115; Hopkins County Board of Education, 1900001275; Morehead State University, 1900001525; Western Kentucky University Research Foundation, 1900001526; Kentucky Community and Technical College System, 1900001527; Ballard County Board of Education, 1900001532; Bowling Green Independent School District, 1900001537; Covington Independent School District, 1900001542; Fleming County Board of Education, 1900001547; Grayson County Board of Education, 1900001551; Marshall County Board of Education, 1900001603; McCreary County Board of Education, 1900001604; Scott County Board of Education, 1900001609.

STATE TREASURER  
University of Kentucky Research Foundation, 1900000711-1.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

LEGISLATIVE RESEARCH COMMISSION  
Dinsmore & Shohl, LLP, 19/20-38. Greg Woosley discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY  
Li Bo, 181934. Terril Martin discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

KENTUCKY RETIREMENT SYSTEMS  
Stoll Keenon Ogden, PLLC, 1900001016. A motion was by Representative Fugate to defer the contract to the April 2019 meeting of the committee. Senator Hornback seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR MEDICAID SERVICES  
University of Kentucky Research Foundation, 1900002797. Tom Stratton and Mike Schutze discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

TRANSPORTATION - OFFICE OF THE SECRETARY  
Kentucky Association of Chiefs of Police, 1900003398. Laura Hagan and Michael Schwendau discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

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

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Eastern Kentucky University, 1800004118; Northern Kentucky Regional Mental Health Mental

Retardation Board, 1900001738. Tom Stratton, Natalie Kelly, and David Gutierrez discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Fugate seconded the motion, which passed.

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Kentucky Association of Child Advocacy Centers, 1900001068. Tom Stratton, Natalie Kelly, and David Gutierrez discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

**EXEMPTION:**

**ENERGY AND ENVIRONMENT CABINET**

Energy and Environment Cabinet requested an exemption from Committee Policy Statement #99-4, which prohibits contracts and agreements from extending beyond the biennium in order to enable the Division of Conservation to pass through restricted funds from Electric Power Research Institute, Inc. to Soil and Water Conservation Districts via a Memoranda of Agreement. A motion was made by Senator Meredith to grant the request to December 31, 2025. Senator Hornback seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 11:19AM.

**PUBLIC PENSION OVERSIGHT BOARD**

**Minutes of the 1st Meeting of the 2019 Interim**  
February 25, 2019

**Call to Order and Roll Call**

The 1st meeting of the Public Pension Oversight Board was held on Monday, February 25, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, Dennis Parrett, Wil Schroder, and Mike Wilson; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Russell Webber, and Buddy Wheatley; J. Michael Brown, John Chilton, Timothy Fyffe, Mike Harmon, and James M. "Mac" Jefferson.

Guests: David Eager, Executive Director, and Erin Surratt, Executive Director, Office of Benefits, Kentucky Retirement Systems; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System; and Donna Early, Executive Director, Kentucky Judicial Form Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo

Cracraft, and Angela Rhodes.

#### **Approval of Minutes**

Senator Parrett moved that the minutes of the December 17, 2018 meeting be approved. Senator Higdon seconded the motion, and the minutes were approved without objection.

#### **Investment and Cash Flow Quarterly Update – Kentucky Retirement Systems**

David Eager, Kentucky Retirement Systems (KRS), began by expressing gratitude for a special appropriation of \$16 million in funding that had recently been received.

Mr. Eager commented on cash flow for the first six months of the fiscal year for both the pension and insurance funds. Mr. Eager focused on the Kentucky Employees Retirement System's (KERS) nonhazardous plan and reviewed cash inflows, outflows, and asset losses as compared to the prior fiscal year. He pointed out the KERS nonhazardous plan was experiencing positive cash flow for the first time in many years, primarily driven by the increase in employer contributions. Across the remaining pension and insurance plans, negative investment returns outpaced positive cash flow, and each of the plans saw net assets decline for the first six months of FY 2019. Mr. Eager noted that, while markets were down and drove the decline in assets, the KRS portfolio had performed better than the market.

In response to questions from Senator Higdon regarding administrative expenses, Mr. Eager stated that the most recent measurement of expenses was a benchmarking study performed in 2016, which reported that the KRS cost per member was \$7 below the peer group. Senator Higdon commented that administrative costs are very important and moving forward he hopes that the costs can be lowered.

In response to questions from Representative Miller regarding County Employees Retirement System (CERS) employer contributions, Mr. Eager stated that, if a phase-in did not exist, KRS would have received a contribution of 28 percent versus the 21 percent actually received. He noted that, if the full actuarially determined contribution rate were received, the plans asset value would have still declined, but not nearly as much.

In response to a question from Mr. Chilton regarding why KERS, the least funded plan, was the only plan to have positive change in assets, Mr. Eager stated the primary reason was due to the base of assets in KERS being so low. At just over two billion dollars, he commented that any gain or loss on existing assets would have less leverage than the significant increase in contributions.

Mr. Eager discussed asset allocation and reviewed current targets for pension and insurance assets. He pointed out that assets would fall into one of three broad categories, which included growth investments, liquidity investment, or diversifying assets. Mr. Eager noted that staff were focusing in on the portion of the portfolio that could provide alpha, such as aggressive equity, emerging markets, private

equity, or specialty credit. For the CERS portfolios, this accounts for roughly 50 percent the portfolio, while within the KERS and State Police Retirement System funds it results in about 33 percent. The remaining portion of the portfolios would be invested passively or in strategies that provide returns less correlated to traditional stocks and bonds.

In response to a question from Mr. Fyffe regarding the portfolios fixed income allocation, Mr. Eager stated that the bulk of the fixed income is actively managed.

In response to a question from Representative DuPlessis, Mr. Eager stated there has been a gradual shift towards more internal management, which accounts for about 18 percent of assets currently.

Mr. Eager discussed recent investment performance for pension assets as of December 30, 2018, for all plans. Mr. Eager stated that fiscal year to date returns were down roughly 3 percent for the first six months of the fiscal year through December, but January saw markets rebound, and KRS was up about 4 percent for that month alone. Mr. Eager also noted recent discussion regarding KRS' return assumption and pointed out that, depending on the time frame (i.e. 5-, 10-, 20- or 30-year), the results differed quite a bit. He indicated the KRS board and investment committee felt like the past should not drive the future, and while KRS might be more conservative with its assumption currently, they have erred on the side of too aggressive in the past.

Representative DuPlessis commented that maybe KRS should have some type of rolling average and a way to adjust the loss of compounding interest.

In response to questions from Representative DuPlessis regarding upcoming studies of assumptions, Mr. Eager stated that KRS was currently in the process of having an experience study conducted, which should be reviewed at the April board meeting.

Mr. Eager briefly discussed performance from the insurance plans as of December 30, 2018. He indicated the plans were largely invested similarly, and returns were roughly down 2 percent for the first half of FY 2019.

In response to a follow up question from Representative DuPlessis regarding the experience study, Mr. Eager stated that it is conceivable that mortality assumptions will change and any revised assumptions would be incorporated in the 2019 valuation process.

In response to a question from Representative Miller regarding how long current mortality assumptions have been used, Mr. Eager was not completely sure, but indicated the assumptions predated Gabriel Roeder Smith, KRS' current actuary.

In response to a question from Representative Graviss regarding KRS' portfolio benchmark, Mr. Eager stated the benchmark is a blend of each index used for each asset class, such as U.S. equity, international equity, emerging markets, core fixed income, etc. In response to a follow up question regarding how many benchmarks are used, Mr. Eager

stated each plan has a single composite, but that composite is based on a group of approximately 10 indexes for each asset class, which are weighted by allocation.

In response to a question from Representative DuPlessis with regards to system checks related to retired reemployed or "double dippers," Ms. Surratt stated that KRS' employer reporting system has edits built in, which require a check to see if a retired member has been reemployed within the allotted time period. Also, the members are required to submit a form prior to returning to employment with a participating agency on which both the member and employer must certify there was no prearranged agreement. There is also an anonymous tip line on KRS' website. Ms. Surratt stated that all accounts, whether reported internal and/or external, are investigated by the legal, benefit, and employer reporting staff. If the member is found to have violated the retired/reemployed laws, the retirement is voided. Ms. Surratt stated there have been several reports of violations from Representative DuPlessis' district and that none of those reports violated the retired/reemployed provisions.

#### **Investment and Cash Flow Quarterly Update – Teachers' Retirement System**

Beau Barnes, Teachers' Retirement System (TRS), began by discussing recent investment performance as of December 31, 2018. He referenced how difficult the end of the year was as markets reacted to the Federal Reserve tightening monetary policy and increasing interest rates. He reviewed net of fee returns for the pension fund across the most recent quarter, along with fiscal year to date, 1-, 3-, 5- and 20-year trailing periods. Lastly, he noted the 30-year compounded gross returns were 8.04 percent.

Mr. Barnes indicated the start of 2019 had also brought an upturn since January 1, 2019, and he provided a snapshot from *The Wall Street Journal* showing the market hitting a low on December 24, 2018, before rebounding and pushing stocks near new highs. Mr. Barnes stated that, while December saw negative returns, it also gave staff an opportunity to put money back into the market. He indicated that TRS had sold over half a billion in stocks from July 2018 to September 2018 as staff rebalanced assets into short term bonds, which increased in value. In December, Mr. Barnes stated TRS had put \$350 million back in the market from the sale of those bonds.

Lastly, Mr. Barnes discussed the cash flow update as of December 31, 2018, and stated that the total cash inflows totaled \$1.4 billion, while outflows were \$1.071 billion. Net cash flow before asset gains or losses were \$333 million, with realized investment losses totaling \$489 million. This resulted in total net plan assets of \$18.2 billion (end of period), compared with \$19.9 billion at the start of the fiscal year.

In response to a question from Representative DuPlessis, Mr. Barnes stated that the investment income includes interest and dividend income, but it also reflects where TRS sold assets.



## **Investment and Cash Flow Quarterly Update – Judicial Form Retirement System**

Donna Early, Judicial Form Retirement System (JFRS), opened with a brief historical review of the retirement funds managed by and the board of trustees governing JFRS. She expressed a belief that the board had been good stewards of the plans and referenced current funding levels as evidence.

In response to questions from Senator Higdon regarding the size of JFRS, Ms. Early stated that JFRS has 2 employees, herself and one other. She also noted that, while administrative costs are managed carefully, JFRS' costs can appear to be higher than the other retirement systems due to the limited number members.

Ms. Early discussed the membership profile of the legislators' plan, noting that 41 out of 138 are members of the hybrid plan, while 58 participate in the defined benefit plan and 38 are members of KERS. She pointed out that when the hybrid plan was created, the board of trustees choose to keep the funds segregated for cost and appropriation purposes.

Ms. Early reviewed recent investment performance for the Judicial Defined Benefit Plan and the Judicial Hybrid Cash Balance Plan. Like her TRS and KRS counterparts, she noted performance was not favorable in December, but noted the funds' market value had increased from \$385 million on December 31 to \$415 million as of February 22, 2019. The hybrid cash balance plan has a market value of \$1 million.

Ms. Early reviewed the Legislators' Defined Benefit Retirement Plan and the Legislators' Hybrid Cash Balance Retirement Plan. In the defined benefit plan, the market value was \$112 million ending December 2018 and has increased to \$121 million. The hybrid cash balance plan has a market value of \$247,636.

Lastly, Ms. Early reviewed the statement of changes in net position for the Judicial and Legislators' Retirement Plans. She stated that the judicial net plan assets as of December 31 fell by \$10 million, which was driven primarily by asset losses of 12 million. On the legislators' plan side, net plan assets had declined by \$3 million as of December 31.

In response to a question from Representative Wheatley, Ms. Early stated that legislators cannot opt out of the pension system.

Dolly Guenthner, retiree, testified that she was a whistleblower regarding the city of Elizabethtown for fraud against the KRS. She stated she wants support for whistleblowers.

There being no further questions, the meeting was adjourned.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 2nd Meeting of the 2019 Interim**

March 25, 2019

## **Call to Order and Roll Call**

The 2nd meeting of the Public Pension Oversight Board was held on Monday, March 25, 2019, at 1:00 PM, in Room 154 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 Jim DuPlessis, Co-Chair; Senators Dennis Parrett, Wil Schroder, and Mike Wilson; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Russell Webber, and Buddy Wheatley; J. Michael Brown, John Chilton, Timothy Fyffe, Mike Harmon, and Sharon Mattingly.

Other Legislators Attending: Representatives Derrick Graham.

Guests: Gary Harbin, Executive Secretary, Teachers' Retirement System; Brad Gross, Jennifer Black Hans, and Bo Cracraft LRC Staff.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

### **Approval of Minutes**

Representative Pratt moved that the minutes of the February 25, 2019 meeting be approved. Senator Parrett seconded the motion, and the minutes were approved without objection.

Senator Higdon invited Gary Harbin, Executive Secretary, Teachers' Retirement System (TRS), to introduce himself to the newest members of the Public Pension Oversight Board. Mr. Harbin stated that he is a CPA and has been with the TRS for the past 20 years. He thanked the board and the General Assembly for the legislation that passed this session and stated that TRS should be able to get back into private equity with the passing of Representative Miller's bill. Mr. Harbin stated that private equity is an asset class that returned 19 percent net of fees in 2018, and it will allow TRS with an allocation of 7 percent to keep pace with other pension plans that have an allocation of 15 percent in comparison. Mr. Harbin stated that, most importantly, this is the first budget that has fully funded both the pension and medical plans since he has been with TRS, which allows TRS to invest more freely, it takes care of cash flow needs, and allows the system to be maintained in a more proper fashion.

In response to a question from Senator Higdon, Mr. Harbin stated the only issue he foresees in the upcoming year is moving the assumptions, which TRS will be looking at this year. TRS will look at both the payroll growth and the assumed rate of return, which is looked at every five years. He discussed a study by the National Association of State Retirement Administrators (NASRA).

Representative Miller commented that the most recent NASRA study showed a downward trend on assumed rates and for the median it is 7.25 percent and the average is 7.27 percent. Mr. Miller also mentioned that payroll growth over the last 10 years has been 1.7 percent. Mr. Harbin confirmed that TRS is still using 3.5 percent.

In response to questions from Representative DuPlessis, Mr. Harbin stated that the assumptions should not be changed too often due to asset allocations being based on those assumptions. He also stated that TRS does change the asset allocation on an annual basis so the investments are not impacted by the actuarial assumptions. Answering a follow up question, Mr. Harbin stated that the TRS board and staff has been stable and excellent, with low turnover and some of the lowest administrative costs in the nation with good long term investment performance. He stated that TRS has two investment experts serving on the board and regularly consults other investment professionals. Mr. Harbin stated that the makeup of the board is totally subject to the control of the General Assembly.

In response to questions from Representative Graviss, Mr. Harbin stated the assumptions will be reviewed in 2020. He confirmed that assumptions are reviewed every five years and independent actuarial audits conducted every ten years. In response to a follow up question regarding the timing of the assumptions study after the 2020 budget session, Mr. Harbin stated the adjustments to assumptions are long-term and intended to address the needs of the system for the next 30 years. He also stated that there is nothing that would prevent the Governor or General Assembly from providing more funding for TRS. Representative Graviss asked if TRS could supply the General Assembly with projections beyond one year of what the costs and participants would look like under the current assumptions.

In response to a question from Senator Higdon, Mr. Harbin stated the minimal payment for the 2020 budget is already known because it was based on the 2017 review, which gives the legislators plenty of notice to know if additional funding is required.

Representative Miller commented on assumptions, saying that by using a 3.5 percent payroll assumption when for the last 10 years it was actually 1.7 percent, and by using a 7.5 percent assumed rate of return when the national average is 7.25 percent and trending downward, is not TRS is doing a disservice to its members. He also said that the General Assembly should accept the responsibility for the real shortfall by legislating level dollar funding. Mr. Harbin stated he would also support level dollar funding if it was possible, and that TRS would take additional money if the budget would allow it.

In response to questions from Representative Wheatley, Mr. Harbin explained that state law provides that the actuary sets the assumptions, and the board shall approve the assumptions established by the actuary. During the process to set the assumptions every five years, the board has discussions with and receives input from the actuaries. In response to a follow up question, Mr. Harbin stated that the payroll growth over the last 30 years averaged above 4 percent.

In response to a question from Representative Pratt, Mr. Harbin stated that TRS uses actuaries that are independent, professional actuary firms, just like

the CPA firms used for the audit.

### **Legislative Update**

Brad Gross and Jennifer Black Hans, LRC Staff, presented the 2019 legislative update. Mr. Gross stated that most of the bills that have passed to date specifically deal with issues of retired reemployed members of the Kentucky Retirement Systems (KRS). The presentation featured bills passed, bills for possible concurrence, bills introduced of note, and all pension bills introduced in the Senate and House.

Mr. Gross started with some background history on retired reemployed members under state law. He stated that, in a 2008 special session, the General Assembly passed HB 1, which made significant changes to breaks in employment and how things are impacted when somebody retires and comes back to work at KRS. Specifically, if a retiree at KRS is reemployed on or after September 1, 2008, there is no second retirement account. Also, the employee does not have to contribute to the systems because he or she is not earning a benefit. However, HB 1 required the employer to continue making the contribution on behalf of the reemployed member and at the established rate in order to help pay down the unfunded liability. In the case of retiree health care, which was provided to retired reemployed members by the retirement systems, state law provided that, if that retiree took health insurance coverage through the systems, the employer was still required to reimburse the system for the cost of that member's health care. There were also some federal issues in or around 2008, which had to be addressed by state law. Specifically, state law clarified what constitutes a prearranged agreement between the retired reemployed member and the same participating employer from which the member retired. Under this scenario, there is the potential for a voiding of the retirement benefits, meaning that it is as if the employee never retired, and the employee will be required to pay back the retirement benefits that were paid.

Mr. Gross reviewed bills that have passed in regards to KRS retired reemployed provisions. HB 55 creates a legal assumption as to prearranged agreements and specifies the voiding of retirement for an elected official which retires from KRS and is re-elected to the same office within 12 months of retiring. HB 381 relates to retired reemployed police officers at universities. It creates an exemption for the universities so it is not required to pay the employer contribution for pension and retiree health on certain officers reemployed to specific positions that are limited in number.

Senator Higdon commented that at some point the issue needs to be revisited regarding employers of retired officers not paying the full rate. He explained that the systems should still recoup the normal cost.

Mr. Gross continued with HB 419 relating to the process for retired reemployed members and their employers to comply with KRS verification regarding prearranged agreements or employment as an independent contractor. The bill provides that there

is no prearranged agreement if the reemployment occurs 12 months or later from the date of the retirement. HB 419 should contribute to reducing paperwork between the parties and KRS.

In response to a question from Representative Miller, Mr. Gross confirmed that HB 381 did not change current state law as it applied to retirees which retain to their local elected positions, for which it does not earn retirement after it retires from a participating agency in KRS.

Ms. Hans reviewed bills passed regarding KRS and TRS housekeeping and the ethical requirements for investment managers. HB 80 relates to KRS housekeeping and permits KRS to use electronic ballots for trustee elections and synchronizes the elections for the two County Employees Retirement System (CERS) trustees. HB 489 relates to KRS and TRS ethical requirements for investment managers and adopts additional conflict of interest provisions. Mr. Gross reviewed SB 107 that passed and provides for the automatic enrollment of state employees in a 401(k) plan administered by the Deferred Compensation Authority.

Mr. Gross discussed HB 358, which had passed both chambers with different versions. HB 358 relates generally to the cessation of participation in the Kentucky Employees Retirement System (KERS) by universities and quasi-governmental entities by a date certain. Both versions also extend the freeze on the employer contribution rate for those quasi-state agencies in KERS already receiving the lowered rate in fiscal year 2018-2019. The reduced rate would be maintained at 49.47 percent of pay in fiscal year 2019-2020.

In response to a question from Representative Wheatley, Mr. Gross stated that the quasi-governmental entities participating in TRS are statutory. When the CERS was created, quasi-governmental entities participated as a voluntary opt in system, but once in, it had to remain in. For KERS, the Governor issues Executive Orders often at the request of the entity to participate and, more recently, final approval is with the KRS board of trustees.

In response to a question from Representative DuPlessis regarding the Senate's version of HB 358, Mr. Gross stated that, if a quasi-governmental employer were to opt back in to KERS, the employer would have to pay 83.43 percent of pay within the next budget cycle absent future action by the legislature.

In response to questions from Representative Graviss, Mr. Gross confirmed with Dave Eager that approximately 9,000 employees in KERS could be impacted by HB 358. In response to follow up questions, Mr. Gross stated that policy issues do exist regarding the absence of an installment period and specifics regarding what enforcement mechanisms KRS would have to ensure timely and continued payments. Representative Graviss commented that these questions concerning the bill could leave KRS and the remaining participating employees holding the bag for the nonpayment.

In response to a question from Representative Miller, Mr. Gross stated that, under current law, if an agency has voluntary cessation, its employees stop participating as of a date certain and the employer ceasing participation pays the actuarial bill as determined by the KRS actuary.

In response to a question from Ms. Mattingly, Mr. Gross stated that under current cessation provisions, whatever an employee accrued to cessation date is still in the system. Under some of the proposals related to HB 358, some employees could elect to continue participating in KERS.

Senator Higdon commented that, if an employer ceases participating in the system, the employee can take another state job and pick up their retirement where it left off.

Mr. Gross discussed in summary fashion SB 41, which passed the House with a House floor amendment extending the rate reduction for quasi-governmental entities, and SB 162, relating to school resource and security officers. Finally, Mr. Gross noted bills that are still pending: HB 504 relating to TRS pension reform, HB 505, which includes level dollar funding for TRS, and HB 525, proposing to change the TRS board composition. On that, Mr. Gross concluded staff's legislative update presentation.

David Eager, Executive Director, KRS, was asked to join staff to answer some questions from the board members.

In response to an earlier question from Representative Graviss regarding HB 358, Mr. Eager stated that KRS is internally analyzing whether it could garnish funds that might otherwise go to agencies from the state through the general fund. Mr. Eager stated it was his belief that KRS can intercept those funds. Mr. Eager also stated that universities continue to outsource positions and reduce their contribution rates, but the liability for KRS does not go down and is also absorbed.

Representative Graviss stated that there were still outstanding questions regarding HB 358, particularly relating to the inviolable contract issues for employees that are questionable if an entity opts out. Later during the meeting, Mr. Gross explained the history of the original cessation statute, 2015 RS HB 62, and that the systems opined that it did not violate the contract. However, an agency interpretation of legislation does not prevent a party from pursuing litigation.

At the request of Representative Graviss, Mr. Eager said that KRS could provide more specific data regarding the employees that could be impacted by HB 358. He also advised that there is about a \$3 billion liability from quasi-governmental entities opting out with roughly one-third of it being for universities, one-third for public health, and one-third for mental health.

In response to follow up question from Representative Graviss, Mr. Eager stated that the actuarial analysis on cash flow assumes that every agency would opt out. Under the lump sum option, KRS would receive a substantial amount of money in

the third year. Under the installment option, there is no cost flow projection at this time.

In response to a question from Senator Higdon concerning a quasi-governmental entity opting out of the current system (Tier 1 & Tier 2), he asked if it would be an advantage to KRS if the entity created a new retirement system in Tier 3. Mr. Eager stated he was not sure of the legal aspect, but that there has been discussion that the entity could work with the deferred compensation system to set up plans.

Mr. Eager commented on other aspects of the bill, including that the installment payments that are driven by a contribution rate based on the 2019/2020 valuation will be harmful to KRS; that the actuaries suggest that there are agencies that will never pay the full actuarial cost over installments with no specific end period; and that with at 13 percent funded level, KRS should not be the bank for the unsecured installment loans.

In response to a question from Representative Graviss, Mr. Eager stated that KRS' position has not changed that KRS is financially neutral other than the \$121 million for the one year delay. The perception is that the universities are in a more stable position with the ability to raise revenue through tuition and other sources.

#### **Biennial Investment Review**

Bo Cracraft, LRC Staff, provided a semi-annual investment review. He started with asset allocation, generally, and explained, that how a plan chooses its investments, drives 90 percent of returns. Mr. Cracraft gave a brief description of the traditional and alternative asset classes with the average peer percentages. He then reviewed the market performance of the components of those asset classes and did a comparison between 2017 versus 2018. Next, he provided a review of the current allocations of the systems' asset classes detailing the percentages under each asset class for each of the systems. He noted that public equity returns were low and private equity returns were the strongest performing asset class.

Mr. Cracraft discussed investments for each of the pension plans for the fiscal year to date, 1-, 3-, 5-, 10-, and 20-year rate of return percentages. He also compared the plans' performance to the peer groups' median returns for the 1-, 3-, 5-, and 10-year snapshots.

Mr. Cracraft cautioned that it is difficult to grade performance within a single time snapshot. As an example, Mr. Cracraft discussed specific performance as compared with a one month difference. He stated that December 2018 was one of the worst Decembers on record. On December 24, 2018, the S&P 500 fell by almost 3 percent, and it has never fallen more than 1 percent on that particular day. He stated that January 2019 performance came back strong and was up approximately 8 percent. Mr. Cracraft provided a chart that shows changes from one month to the next for the systems. He explained this is why the actuarial and valuation professionals smooth the returns to

obtain a more accurate performance review.

In response to a question from Representative DuPlessis, Mr. Cracraft stated he was not aware of any studies regarding whether the Kentucky systems could benefit by investing in the state park systems, such as how the teachers' retirement in Alabama built and developed the Robert Trent Jones golf courses both within and out of the state. He noted that Alabama is an outlier with these investments and even had ownership of an airline at one time.

In response to a question from Representative Graviss, Mr. Cracraft stated that he had not personally run the numbers at 5.50, 5.75, and 6 percent for KERS nonhazardous, but that this information could be found in the sensitivity analyses conducted as part of the actuarial valuations for both TRS and KRS. He noted that comparing assumptions at this level require the analysis of an actuary.

Mr. Cracraft continued with his presentation showing recent changes with asset allocation for all systems. He stated that TRS did sell equity assets during the third quarter.

Under investment return assumptions, Mr. Cracraft stated that NASRA conducts an annual survey that shows change in median and average public pension plan investment return assumptions. The updated chart shows that the median has now dropped to 7.25 percent.

In response to a question from Representative DuPlessis, Mr. Cracraft stated that if the Federal Reserve raises interest rates, the investment market returns should also rise, but on the flip side there will be an impact as a result of inflation growth. With no additional questions, he concluded his presentation.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Monday, April 22, 2019.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes of the 1st Meeting of the 2019 Interim**

April 3, 2019

#### **Call to Order and Roll Call**

The 1st meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, April 3, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Dennis Parrett and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Brandon Reed, and Dean Schamore.

Guests: Warren Beeler, Executive Director,

Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP.

LRC Staff: Tanya Monsanto, Kelly Ludwig, Nathan Smith, and Rachel Hartley.

Representative Dossett was nominated to the position of co-chair of the committee. After a motion was made and seconded, the nominations ceased. Upon roll call vote, the motion passed with five yes votes.

#### **Governor's Office of Agricultural Policy Report**

Warren Beeler introduced new staff members and highlighted projects considered by the Agricultural Development Board from January to March.

In response to a question from Representative King, Mr. Beeler stated in agriculture it is important to find a market and work backwards instead of hoping consumers will buy your product.

In response to a question from Senator Parrett, Mr. Beeler stated the funds approved for Sunstrand, LLC, were a combination of a grant and a loan totaling \$380,000.

In response to a question from Senator Embry, Mr. Beeler stated HB 311 from the 2019 Regular Session should be used as a template for the dairy farms regarding the labeling of "soy milk" as milk.

In response to a question from Representative Schamore, Mr. Beeler stated GOAP has encouraged United States Department of Agriculture Forest Management to hire a part-time state executive to recruit membership and promote management of the crop.

Bill McCloskey described the Agricultural Development Board's projects for March under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program, Deceased Farm Animal Removal, Next Generation Beginning Farmer, and Shared-use Equipment.

Requested program amendments discussed included:

Estill County Conservation District requested to change priority for large animal to primary and small animal to secondary for the Estill County CAIP. The board recommended approval, which would keep the program total at \$85,000.

Projects discussed included:

The Summersville Volunteer Fire Department was approved for \$445 in Green County funds to purchase one Turtle Tube grain bin rescue device.

The Ohio Valley Farm Analysis Group was approved for up to \$105,000 in state funds to hire a third Kentucky Farm Business Management Specialist.

Marksbury Farm Foods was approved for \$104,513 in state funds to obtain a Global Food Safety Initiative audit to determine what equipment and upgrades to the facility are needed.

Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).



There being no further business, the meeting was adjourned.

## GOVERNMENT CONTRACT REVIEW COMMITTEE Committee Minutes

April 9, 2019

### Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, April 9, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and John Schickel; Representatives Charles Booker, Chris Fugate, and Mark Hart.

Guests: Cassandra Weiss, Katherine Rupinen, Dana Feldman, Jason Glass, Joe Bilby, Jeremy Hamm, Melissa Weitzel, Rachel Malhotra, Bart Hardin, Jay Blanton, David Gormley, Kevin Martin, Tim Layson, Mike Denney, Michele Sullivan, Laura Hagan, Megan McLain, Deaidra Douglas, Kerrie Dehorty, Sandra Dunahoo, Amy Barnes, Greg Ladd, Tony Wilder, David Duttlinger, Mike Burruss, Lisa Dennis, Melanie Taylor, Toby Smith, Jay Hall, and John Cox.

LRC Staff: Kim Eisner and Kim Smith.

### MARCH DEFERRED ITEM:

#### KENTUCKY RETIREMENT SYSTEMS

Stoll Keenon Ogden, PLLC, 1900001016. Cassandra Weiss and Katherine Rupinen discussed the contract with the committee. A motion was by Senator Carroll to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

A motion was made by Representative Lee to approve Minutes of the March 2019, meeting of the committee. Representative Fugate seconded the motion, which passed without objection.

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

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

### THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

#### BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

The Chyron Group, LLC, 1900003217.

#### BOARD OF EXAMINERS OF SOCIAL WORK

Johnson Bearse, LLP, 1900003603.

#### DEPARTMENT FOR INCOME SUPPORT

True North Counseling & Development, 1900000510-1.

#### DEPARTMENT OF AGRICULTURE

Roy Wayne White, 1900003738.

#### DEPARTMENT OF CORRECTIONS

The Moss Group, Inc., 1900003657.

#### DEPARTMENT OF EDUCATION

Education Measurement Consulting, LLC, 1900003695.

#### DEPARTMENT OF HIGHWAYS

Leslie M. Haney & Albert W. Gross Partner, 1900003654; Michael Baker International, Inc., 1900003824.

#### EASTERN KENTUCKY UNIVERSITY

Element Design, 20-182.

#### FACILITIES & SUPPORT SERVICES

Omni Architects, 1900003527; GRW Engineers, Inc., 1900003528; Omni Architects, 1900003529;

Wood Environment & Infrastructure Solutions, Inc., 1900003530; Synterra Corporation, 1900003709.

#### FINANCE - OFFICE OF THE SECRETARY

Gatlin Voelker, PLLC, 1900003579; Smith Cashion & Orr, PLC, 1900003706.

#### KENTUCKY EDUCATIONAL TELEVISION

Widelity, Inc., 1900003607.

#### KENTUCKY STATE FAIR BOARD

Charlotte Mattson Kurtz, 1900003713.

#### KENTUCKY STATE POLICE

Kenneth Stewart, 1900003723.

#### KY COMMUNITY TECHNICAL COLLEGE SYSTEM

AON Consulting, Inc., 775.

#### NORTHERN KENTUCKY UNIVERSITY

Paymetric, Inc., 2019-134.

#### OFFICE OF INSPECTOR GENERAL

NJHA Healthcare Business Solutions, Inc., 1900003008.

#### UNIVERSITY OF LOUISVILLE

Hyphae Design Laboratory, LLC, 19-082.

#### WESTERN KENTUCKY UNIVERSITY

Multi, 181941.

### THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

#### BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Sources of Strength, Inc., 1800002008.

#### BOARD OF MEDICAL LICENSURE

Multi, 1900000777.

#### CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Center for Comprehensive Services, Inc., 1900000471.

#### DEPARTMENT FOR INCOME SUPPORT

Frances Janelle McNeal, 1900000510.

#### DEPARTMENT FOR MEDICAID SERVICES

Navigant Consulting, Inc., 1800001738.

#### DEPARTMENT FOR NATURAL RESOURCES

MineSafety Services, LLC, 1900000892.

#### DEPARTMENT FOR PUBLIC HEALTH

Multi, 1900001212.

#### DEPARTMENT OF CORRECTIONS

Correct Care Solutions, LLC, 1900000513.

#### DEPARTMENT OF HIGHWAYS

H. W. Lochner Consulting, Inc., 0700006607;

T H E Engineers, Inc., 1000001409; Burgess & Niple, Inc., 1100000206; Florence & Hutcheson, 1100003026; Municipal Engineering Company, 1300000984; Stantec Consulting Services, Inc., 1500002598; Bacon Farmer Workman Engineering & Testing, Inc., 1800000283; Kimley-Horn and Associates, Inc., 1800001041; Stantec Consulting Services, Inc., 1800001566; QK4, Inc., 1800002274.

EASTERN KENTUCKY UNIVERSITY

iModules Software, Inc., 20-001; Tolene Pitts, 20-092; Diane Renee Yates, 20-126.

FACILITIES & SUPPORT SERVICES

Hafer Associates, 1500001053; Bowser-Morner, Inc., 1500001064; Kohrs Lonnemann Heil Engineers, PSC, 1600002220.

MOREHEAD STATE UNIVERSITY

Pam Mattox, 19-012.

PERSONNEL - OFFICE OF THE SECRETARY

Blue & Company, LLC, 1800002024.

TRANSPORTATION - OFFICE OF THE SECRETARY

Embry Merritt Shaffar Womack, PLLC, 1800001362.

UNIVERSITY OF KENTUCKY

JRA Architects, A191080; Commonwealth Economic Partners, K19-102.

WESTERN KENTUCKY UNIVERSITY

Multi, 182014.

WORKERS' COMPENSATION FUNDING COMMISSION

Blue & Company, LLC, 1900000817.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

University of Louisville, 1900003360; Kentucky Coalition Against Domestic Violence, Inc., 1900003482; Independence Place, Inc., 1900003490; Eastern Kentucky Cep, Inc., 1900003570; Federation of Appalachian Housing Enterprises, Inc., 1900003586; Technical Assistance Collaborative, Inc., 1900003624.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Green County Board of Education, 1900003515; Franklin County Board of Education, 1900003531.

DEPARTMENT FOR LIBRARIES & ARCHIVES

Elliott County Fiscal Court, 1900002684.

DEPARTMENT FOR LOCAL GOVERNMENT

Bourbon County, 1900003448; Hickman County Industrial Development Authority, 1900003520; Breathitt County Fiscal Court, 1900003541; Harlan County Fiscal Court, 1900003576; City of Covington, 1900003577; Murray-Calloway Industrial Authority, 1900003594; Floyd County Fiscal Court, 1900003630; Lee County Treasurer, 1900003648; Daviess County Fiscal Court, 1900003674; Christian County, 1900003691; Perry County Fiscal Court, 1900003720.

DEPARTMENT FOR NATURAL RESOURCES

University of Georgia Research Foundation, Inc., 1900003412.

DEPARTMENT OF AGRICULTURE

Shelby County A&M Association, 1900003329; Pendleton County Youth Fair, Inc., 1900003330; McLean County Extension Services, 1900003331; Multi, 1900003582; Feeding America, Kentucky's Heartland, 1900003664; Gods Pantry Food Bank, Inc., 1900003666; Dare To Care, Inc., 1900003668.

DEPARTMENT OF CORRECTIONS

Kentucky Administrative Office of the Courts, 1900002732.

DEPARTMENT OF EDUCATION

Western Kentucky University, 1900003542; Northern Kentucky University, 1900003589.

DEPARTMENT OF MILITARY AFFAIRS

University of Kentucky Research Foundation, 1900003465.

EARLY CHILDHOOD DEVELOPMENT

Eastern Kentucky University, 1900003643.

JUSTICE - OFFICE OF THE SECRETARY

University of Louisville, 1900001749.

OFFICE OF INSPECTOR GENERAL

Nazareth Home, Inc., 1900003009.

OFFICE OF KY NATURE PRESERVES

Finance Real Property, 1900003430.

TRANSPORTATION - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 1900003565; Commonwealth Office of Technology, 1900003571.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS

Pennyroyal Mental Health, 1700001120; Cumberland River Behavioral Health, Inc., 1800001841.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Pharmacy Education and Research Foundation, Inc., 1700002898; Kentucky Housing Corporation, 1800001972; People Advocating Recovery, 1800001981; Kentucky Partnership for Families and Children, Inc., 1900000286; Western Kentucky Regional Mental Health & Retardation Advisory Board, 1900000932; Pennyroyal Regional Mental Health Mental Retardation Board, 1900000933; Lifeskills, Inc., 1900000935; Communicare, Inc., 1900000936; Bluegrass.org, 1900000947.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 1900000884; Multi, 1900001159.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Multi, 1800001654; Pathways, Inc., 1800001811; Comprehend, Inc., 1800001900; Kentucky Association of Sexual Assault Programs, 1800001967; Mountain Comp Care Center, 1800002042; Gods Pantry Food Bank, Inc., 1900001167; University of Louisville Research Foundation, 1900002889.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Mount Olivet, 1700001698; City of Ewing, 1800000649.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Hospital Research & Education Foundation, 1800001682; University of Kentucky Research Foundation, 1800001836; Public Health Foundation, 1800001927.

DEPARTMENT FOR WORKFORCE INVESTMENT

Kentucky Community and Technical College System, 1900000663; American Institutes for Research, 1900000690.

DEPARTMENT OF AGRICULTURE

Multi, 1900003210.

DEPARTMENT OF CORRECTIONS

Chrysalis House, Inc., 1900001106.

DEPARTMENT OF EDUCATION

Madison County Board of Education, 1900000441-1; Scott County Board of Education, 1900000455-1; Christian County Board of Education, 1900001541; Fayette County Board of Education, 1900001545; Grant County Board of Education, 1900001550; Muhlenberg County Board of Education, 1900001605; University of Kentucky Research Foundation, 1900002746.

DEPARTMENT OF JUVENILE JUSTICE

Eastern Kentucky University, 1900002193.

DEPARTMENT OF MILITARY AFFAIRS

University of Kentucky Research Foundation, 1700001210.

#### MEDICAID SERVICES BENEFITS

Kentucky Transportation Cabinet, 1800001313.

#### STATE TREASURER

Department of Public Advocacy, 1800002115-1;  
ARC of Kentucky, Inc., 1800002132-1.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

##### DEPARTMENT OF AGRICULTURE

Eagle Consulting, LLC, 1900003609; Wagner Consulting Group, Inc., 1900003739. Dana Feldman, Jason Glass, and Joe Bilby discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

##### KENTUCKY STATE POLICE

David L. Banks, 1900003656. Jeremy Hamm, Melissa Weitzel, and Rachel Malhotra discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

##### TRANSPORTATION - OFFICE OF THE SECRETARY

HNTB Corporation, 1900003499. Laura Hagan and Megan McLain discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

##### UNIVERSITY OF KENTUCKY

New City Media, Inc., K19-236. Bart Hardin and Jay Blanton discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

#### **THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

##### DEPARTMENT OF HIGHWAYS

American Engineers, Inc., C-03060711. David Gormley, Kevin Martin, and Tim Layson discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

##### EARLY CHILDHOOD DEVELOPMENT

Compass Evaluation and Research, 1900000832. A motion was made by Senator Carroll to defer the contract to the May 2019 meeting of the committee. Representative Lee seconded the motion, which passed.

#### KENTUCKY LOTTERY CORPORATION

MCM CPA's and Advisors, 19-16-011. Mike Denney and Michele Sullivan discussed the contract with the committee. A motion was made by Representative Booker to consider the contracts as reviewed. Representative Hart seconded the motion, which passed with Representative Fugate and Representative Lee voting no.

#### **THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10K AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

##### DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Survival Edge Tactical Systems, Inc., 1900003513. Deandra Douglas and Kerrie Dehorty discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Senator Schickel seconded the motion, which passed.

#### **THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

##### DEPARTMENT FOR LOCAL GOVERNMENT

Barren River Area Development District, 1900003293; Big Sandy Area Development District, 1900003294; Bluegrass Area Development District, 1900003295; Buffalo Trace Area Development District, 1900003296; Cumberland Valley Area Development District, 1900003297; Fivco Area Development District, 1900003298; Green River Area Development District, 1900003300; Kentucky River Area Development District, 1900003301; Lincoln Trail Area Development District, 1900003304; Pennyryle Area Development, 1900003306;. Sandra Dunahoo, Amy Barnes, and Greg Ladd discussed the contracts with the committee. A motion was made by Senator Hornback to disapprove the contracts. Senator Schickel seconded the motion, which passed with Representative Fugate voting no and Representative Booker electing to pass.

##### DEPARTMENT FOR LOCAL GOVERNMENT

Clay County Fiscal Court, 1900003650; Clay County Fiscal Court, 1900003651. Sandra Dunahoo, Amy Barnes, and Greg Ladd discussed the contracts with the committee. A motion was made Senator Hornback to consider the contracts as reviewed. Representative Hart seconded the motion, which passed on the condition that the funding source be changed to coal severance.

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

##### DEPARTMENT FOR COMMUNITY BASED SERVICES

Multi, 1800001966. Lisa Dennis, Melanie Taylor, and Toby Smith discussed the contract with the committee. A motion was made by Senator Schickel to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

##### TRANSPORTATION - OFFICE OF THE SECRETARY

Kentucky Association of Chiefs of Police, 1900002655; Kentucky Association of Chiefs of Police, 1900002656; Kentucky Association of Chiefs of Police, 1900002659. A motion was made by Senator Schickel to defer the contracts to the May 2019 meeting of the committee. Representative Hart seconded the motion, which passed.

#### **THE FOLLOWING FILM TAX INCENTIVES WERE SELECTED FOR FURTHER REVIEW:**

##### TOURISM - OFFICE OF THE SECRETARY

The Haunted Doll Company, LLC, 1900003454. Jay Hall and John Cox discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Schickel seconded the motion, which passed.

There being no further business, the meeting adjourned at 12:52 PM.



## 2019 Session, from page 2

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necessary statutory changes and all other matters relating to certified professional midwives.

**Solar energy.** Senate Bill 100, dubbed the net metering bill, will change how much owners of solar power systems are reimbursed for electricity they add to the power grid. Under the bill, the Public Service Commission will set the compensation rate. The measure will grandfather in those participating in the current net metering structure for 25 years. In addition, those who install solar panels within the next year will be covered by the grandfather clause.

**Strangulation.** Senate Bill 70 will make non-fatal strangulation its own felony crime under Kentucky's criminal code.

**Student loan debt.** House Bill 118, named the Keep Americans Working Act of 2019, will prohibit someone from having an occupational license suspended or revoked because of delinquency on a student loan or work-conditional scholarship. The measure is meant to help keep people with student loan debt out of poverty and in the workforce.

**Taxes.** House Bill 354 will provide tax relief to banks and nonprofits in addition to strengthening Kentucky's ability to collect sales tax on online purchases. The measure will transition the taxation of Kentucky-chartered banks from a franchise tax to state corporate income tax in an attempt to curb the takeover of community banks by banks from states with lower tax rates. Another section of HB 354 will provide relief to nonprofits by exempting those groups from collecting and remitting sales tax on admissions to charity events in addition to making it clear in statute that sales from one-time fundraising events are not subject to the sales tax. Thirdly, HB 354 will increase tax revenue by requiring online marketplace providers to collect and remit sales tax for sales made using their platform.

**Tobacco.** HB 11 would ban the use of tobacco, e-cigarettes and vaping devices on public school campuses, in school vehicles and at school activities beginning with the 2020-21 school year. School districts would have up to three years to opt out of the ban should they choose. The individual districts not opting out will also be able to set the penalties for violating the ban.

# LRC Publications

## Research Reports

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- 457** Office of Education Accountability State And Local Funds Distributed To Higher Poverty Schools (2018)
- 455** Office of Education Accountability Textbooks And Instructional Materials (2018)
- 454** Office of Education Accountability Homeschooling In Kentucky (2018)
- 453** Office of Education Accountability Kentucky District Data Profiles School Year 2017—Click here for an interactive feature
- 452** Program Review and Investigations Kentucky's Foster Care System
- 451** Office of Education Accountability High School Indicators Of Postsecondary Success (2017)
- 450** Office of Education Accountability Preschool Program Review And Full-Day Kindergarten (2017) (Revised 7/10/2018)
- 449** Office of Education Accountability School Attendance in Kentucky (2017) — Click here for an interactive feature
- 446** Program Review and Investigations Motor Fuel Taxes And Reformulated Gasoline In Kentucky 2016
- 445** Program Review and Investigations Information Technology In Kentucky State Government (2014)
- 438** Program Review and Investigations Personal Care Homes in Kentucky (2012)
- 437** Program Review and Investigations Medically Fragile Foster Children

2019 Interim

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