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Lawmakers get crash course in highway safety

by Jim Hannah
LRC Public Information

FRANKFORT – Calling it an economic and public health priority, Kentucky's top highway safety official said she is determined to better use crash data to identify where wrecks occur and what programs best reduce highway collisions.

"The cost of collisions is a staggering $17.7 billion in Kentucky," Office of Highway Safety Executive Director Noelle Hunter said at the Aug. 3 meeting of the Interim Joint Committee on Transportation. "Of course, the value of human lives cannot be quantified."

Kentucky's traffic fatality rate is 1.6 times higher than the national average, she said. At the time of the meeting, 415 people had already died on Kentucky's roadways this year, according to the Kentucky State Police. During the same period last year there were 456 death, in 2015 there were 405 and in 2014 there were 347.

Hunter, armed with a dizzying array of statistics, said new data suggests that number will continue to rise. She said the increase is being driven by people not buckling up in addition to distracted and impaired drivers.

"We recently expanded from two major enforcement campaigns – our well-known Click It or Ticket seat belt campaign and our Drive Sober or Get Pulled Over campaign – to now include a speed campaign targeting aggressive driving," Hunter said. "The results of the expansion are

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Rep. Steve Riggs, D-Louisville, comments before the Aug. 3 meeting of the Interim Joint Committee on Transportation.

Lawmakers ponder future of public notices

by Jim Hannah
LRC Public Information

FRANKFORT – To print, or, not to print? That's the question.

In the age of the internet, a group of state legislators gathered recently to discuss whether to revise a decades-old law which requires public notice of official documents in local newspapers.

"I think everyone on this committee understands the need and importance of transparency," said Rep. Michael Meredith, R-Oakland, at the July 26th meeting of the Interim Joint Committee on Local Government. "I think everyone on this committee also understands that there is a need for us … to be good stewards of local taxpayer dollars. We have to find a balance between all of those things."

Representatives from organizations representing Kentucky's counties, cities and public schools all voiced concern about the cost of advertising financial statements, meeting dates, pending ordinances and bid proposals in the local paper of record.

"City officials and city clerks, in particular, don't want to be mischaracterized as wanting to not give public notice," said J.D. Chaney, deputy executive director of Kentucky League of Cities. "We want to find the most efficient way to engage our citizens and in the most cost-effective way with taxpayer funds."

Shellie Hampton, director of governmental relations for the Kentucky Association of Counties, said Kentucky's public notice laws are simply out of date.

"The statutes that are currently in place keep us really reliant on forms of communication that are not always the most timely for the people or the press," she said. "The explosion of social media options … have changed the way information is released by not only the press but elected officials."

Rep. Attica Scott, D-Louisville, asked Kentucky Municipal Clerks Association President Christine Upton what digital sites could be used instead of printed newspapers. Upton, who is also the Hopkinsville city clerk, said Facebook, Twitter, Instagram and Snapchat in addition to

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Interim Joint Committee on Transportation co-chairs Rep. Marie Rader, R-McKee, at left, and Sen. Ernie Harris, R-Prospect, talk after the committee's August meeting.

more sustained law enforcement campaigns over a longer period of time and more opportunities for smaller law enforcement agencies to participate in campaigns through mini grants."

She said she works with 171 law enforcement agencies including Kentucky State Police.

"All of what I've shared with you are moving us forward in reversing the deadly trend of traffic fatalities and serious injuries in our beloved Kentucky," Hunter said after outlining all the programs her office oversees. "To do so effectively, we must rely on data that illustrates the reality of the state of highway safety."

One of those programs she outlined was the Safety Assistance for Freeway Emergencies (SAFE) Patrol. It is a free roadside service that monitors Kentucky interstates, parkways and other major roadways from 6 a.m. to 10 p.m. seven days a week in mostly rural areas. SAFE Patrol has 22 truck and 24 operators.

"Annually our operators make more than 37,000 stops rendering aid to vulnerable motorists," Hunter said. "Outside of urban areas commercial roadside assistance is often unreliable or delayed for motorists in disabled vehicles. Sometimes we are the only ones that can get to them in a timely manner."

Rep. Steve Riggs, D-Louisville, asked why SAFE Patrol is not available, for example, in Jefferson County since the data shows metropolitan areas have the most crashes.

"Over the years I've noticed many bureaucrats here in Frankfort don't come from those areas so they like to turn their back on giving us the services we need to improve that data," Riggs said.

Hunter said funding prevents her from expanding SAFE Patrol to the entire state.

"We certainly recognize the inherent tensions between rural versus urban communities and distribution of scarce resources," she said.

Co-chair Sen. Ernie Harris, R-Prospect, praised Hunter's approach with the limited amount of state tax dollars budgeted for her office and the strings attached to the federal grants she does receive.

"I've been chairman or on the committee for eight years and this is one of the most informative briefings I've received," he said. "In fact, this is the first one to go into so much great detail of your office."

Rep. Sal Santoro, R-Florence, makes a comment following meeting testimony.

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government websites could all be harnessed to disseminate public notices.

"I think we need to move along … in terms of reducing unfunded mandates because that is what this is," said Rep. Jerry T. Miller, R-Louisville. "It is an unfunded mandate."

Sen. Wil Schroder, R-Wilder, said he was going a step further than Miller.

"I think it is a subsidy," said Schroder, who has previously introduced legislation amending the public notice law. "We are subsidizing these small newspapers as an expense to taxpayers."

Kentucky Press Association Executive Director David Thompson said newspapers are tax-paying businesses and employers. He said, for example, that one local paper receives $773 in revenue from public notice advertisements from a local school district while paying more than $7,000 in school taxes.

Shellie Hampton, director of governmental relations for the Kentucky Association of Counties, said Kentucky's public notice laws are simply out of date.

"I would say that is a pretty good return on the investment for the school district to get 10 times in taxes than what the newspaper charged for publishing the financial statement," Thompson said.

He added people read online content differently than they do newspapers. Newspaper readers aren't necessarily seeking out public notices when they open a newspaper, Thompson said, but they do read them in the course of browsing the pages.

Prison costs, victims rights eyed by panel

by Rebecca Hanchett
LRC Public Information

Rep. Tom Burch, D-Louisville, makes a comment during the Aug. 4 meeting of the Interim Joint Committee on Judiciary.

FRANKFORT—Kentucky had to dole out nearly $43 million in additional, non-budgeted funds last fiscal year to house state inmates.

This "necessary governmental expense," or NGE as the funds are called, is only a fraction of $140 million in NGEs the state has had to spend on corrections over the past six years in addition to budgeted funds, Kentucky Public Advocate Ed Monahan told the August Interim Joint Committee on Judiciary. Unless corrections costs are controlled, Monahan said the state can expect to pay an additional $100 million on its prison population in the next two years.

Telling lawmakers they need to realign corrections spending so that funds are used in a "smarter way," Monahan suggested more money be invested in treatment. Increasing the threshold for felony theft, now set at $500, along with earned parole or lower penalties for some crimes are other ideas he shared.

"Change this long-term. There are good ideas… Seize them in this next biennium and start to change this financial outcome that is inevitable if nothing changes," said Monahan.

Those concerned with being tough on crime were reassured by Monahan that Kentucky's crime rate is falling, with violent crime plummeting 28 percent over the 30-year period between 1985 and 2015. The issue is the rate of imprisonment has not fallen along with the crime rate—instead nearly quadrupling over the same period.

"For the first time in the history of the Commonwealth, we have exceeded 24,000 people in prison," he said. "This is at great expense compared to what you've budgeted."

In regards to the NGE funds, Judiciary Committee Co-Chair Sen. Whitney Westerfield, R-Hopkinsville, asked why spending in some years is greater than in others as the crime rate falls while incarceration costs rise. Monahan said researchers have found that only 25 percent of the reduction of the crime rate is due to incarceration, while incarceration had "no measurable effect" on the remaining 75 percent decline.

"Their analysis is there are other things that affect crime rates: policies, policing practices, alternative (programs)," said Monahan. "But I think what we know here is odds are high that over the next four or five years the crime rate is going to continue to decline, the number of cases in the system is going to continue to decline, but your incarceration rate is going to continue to increase."

Rep. Robert Benvenuti, R-Lexington, said a 25 percent reduction in crime is nothing to scoff at. He said thousands of would-be victims were protected because of that reduction in the crime rate due to incarceration.

"I think we need to maintain a very sharp focus on the victims—not only those (who) are ultimately victimized but those who are never victimized because, in fact, the system does work, many times. We simply cannot live in a society in which everything is excused, where there is a rationale for every misconduct," said Benvenuti.

Also concerned for the victims, Rep. Jason Nemes, R-Louisville, said the state may also need to look at who it is incarcerating. Many inmates remain in prison for several years while others committing crimes roam free, he explained.

"I think we need to be a little smarter," said Nemes. "The folks who commit crimes are younger while our PFO (persistent felony offender law) keeps people in prison while they wouldn't be a harm anymore, or at least that's what the numbers show."

Protection of crime victims was also advocated by some lawmakers following a presentation before the panel by Kentucky Association of Criminal Defense Attorneys legislative agent Rebecca DiLoreto after she referenced Marsy's Law, a victims' bill of rights law that was first passed in California and has been modeled by several

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Interim Joint Committee on Judiciary Co-Chair Sen. Whitney Westerfield, R-Hopkinsville, asks a question during the August meeting.

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Committee Meetings

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INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 1st Meeting of the 2017 Interim

June 7, 2017

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Appropriations and Revenue was held on Wednesday, June 7, 2017, at 1:30 PM, at the Northern Kentucky Convention Center . Representative Steven Rudy, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Ralph Alvarado, Danny Carroll, David P. Givens, Stan Humphries, Gerald A. Neal, Dennis Parrett, Wil Schroder, Brandon Smith, Stephen West, and Max Wise; Representatives Rocky Adkins, Regina Bunch, Tim Couch, Ken Fleming, Kelly Flood, David Hale, Brian Linder, Suzanne Miles, Jason Nemes, Phillip Pratt, Jody Richards, Sal Santoro, Arnold Simpson, Jim Stewart III, James Tipton, Jim Wayne, Russell Webber, Susan Westrom, and Jill York.

Guests: Brad Montell, Deputy Secretary and Jessica Fletcher, Director of Communications, Education and Workforce Development Cabinet; John Bevington, Deputy Commissioner and Caroline Baesler, General Counselor, Cabinet for Economic Development

LRC Staff: Jennifer Hays, Cynthia Brown, Amit Shanker, Hannah Walker, and Jennifer Beeler

Work-Ready Initiative

Brad Montell, Deputy Secretary, Education and Workforce Development discussed the Work Ready Skills Initiative. He explained that $98.9 million have been awarded to 40 projects expected to provide top of the line training to more than 47,000 Kentuckians annually in five core sectors. With the $98.9 million awarded, an additional $146.2 million in matching funds have been awarded. There are more than $500 million in requests unfunded.

Deputy Secretary Montell explained that in 2016 the legislature allocated approximately $15 million for each student within the commonwealth to achieve up to two courses in a postsecondary credit tuition free in the dual credit program. The results show that before the dual credit scholarship there were only 17,732 students enrolled, and after the scholarship there were 26,726 enrolled in the program. In 2016, approximately 50,000 students graduated from public high schools; of that total, about 60 percent, or 30,000, students elected to attend some sort of postsecondary education. The remaining 40 percent elected not to enroll in any form of postsecondary education after graduation.

Deputy Secretary Montell stated that in December 2016, Governor Bevin allocated $16 million for the Work Ready Kentucky Scholarship Program to meet the increasing demand for skilled workers in five of Kentucky's fastest growing workforce industries; advanced manufacturing; business and information technology; construction trades; healthcare; and transportation and logistics. The scholarship will pay up to 32 hours to reach the certification. This is a last dollar scholarship, which means that the student would need to apply for the FASFA and federal dollars first and then whatever was left over the state would fund out of this scholarship.

In January there was a reorganization of the Office of Educational Technology offices. There were originally 40 offices and now are 12 hubs and eight satellite offices. The reason for the reorganization was twofold—budgetary, because the office was running approximately a $5 million deficit; and the need to centralize staff for better service to the Commonwealth.

Deputy Secretary Montell stated that in 2012 the Commonwealth was approximately $1 billion in debt to the federal government with the unemployment insurance trust fund. As of June 2017, the Commonwealth had paid off the debt and has a positive balance of $425.2 million in the trust fund.

In response to a question from Chairman McDaniel, Deputy Secretary Montell explained that dual credit scholarships are awarded to schools that accept KEES scholarship money.

In response to a question from Representative Wayne, Deputy Secretary Montell explained that the work ready scholarship will not pay for remediation classes. The scholarship pays for skills training.

Review of recent Economic Development awards

John Bevington, Deputy Commissioner, Caroline Baesler, General Counsel, Cabinet for Economic Development discussed the top three awarded Economic Development projects.

Ms. Baesler stated that Governor Bevin has laid out the mission statement for the Commonwealth to become the hub of engineering and manufacturing excellence.

She explained that Secretary Gill and Governor Bevin have travelled the United States and internationally to build and solidify relationships with partners that are not located in Kentucky.

Mr. Bevington explained that the Economic Development Cabinet has set numerous goals to make the Commonwealth a successful business hub. The goals are to: surpass the highest level of announced capital investment, which currently is $5.1 billion, and announce more than 17,000 new jobs; move the Commonwealth into the top quartile of business friendly state rankings; establish a more integrated workforce delivery system within the cabinet, including talent, attraction and retention; and build out the Commonwealth's entrepreneurial community.

Mr. Bevington stated that the three top investments this fiscal year are: Toyota - $1.3 billion investment, which includes machines, equipment, and retooling; and approximately 7,800 jobs solidified; Amazon - $1.5 billion investment, which includes a land lease and building construction, and 2,700 jobs added; and Braidy Industries - $1.3 billion investment for building construction, equipment, land, and construction operation and 550 new jobs.

With no further business before the committee, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 2nd Meeting of the 2017 Interim

July 6, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, July 6, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, 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, Ray S. Jones II, Christian McDaniel, John Schickel, Brandon Smith, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Matt Castlen, Jeffery Donohue, Jim DuPlessis, Daniel Elliott, Kelly Flood, Chris Fugate, Brian Linder, Marie Rader, Jim Wayne, and Jill York.

Guests: Todd Trapp, Assistant Director, Division of Family Support, Department for Community Based Services, Elizabeth Caywood, Executive Advisor, Commissioner's Office, Department for Community Based Services, Roger McCann, Executive Director, Community Action Kentucky, Inc., Jeremy Jackson, President/Owner, Jackson Group, Rick Wolf, Director of Engineering, Jackson Group, Reagan Taylor, Madison County Judge/Executive.

LRC Staff: D. Todd Littlefield, Stefan Kasacavage, and Janine Coy-Geeslin, and Susan Spoonamore and Rachel Hartley, Committee Assistants.

Presentation and public hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application – FY 18

Elizabeth Caywood provided an overview of the Department for Community Based Services (DCBS), which is the largest organizational unit within the Cabinet for Health and Family Services with a budget over one billion dollars. LIHEAP is targeted towards households with the lowest income that pay a high proportion of income for home energy. DCBS anticipates Kentucky's award will be $47.2 million for 2018.

DCBS maintains a contractual arrangement with Community Action Kentucky, Inc. (CAK) and the Kentucky Housing Corporation (KHC) to provide support, training, and monitoring. CAK and KHC have a sub-contractual arrangement with Kentucky's Community Action Network that makes LIHEAP benefits available in all counties.

Todd Trapp discussed benefits offered by LIHEAP such as bill payment assistance, emergency assistance, summer cooling, and weatherization activities.

Roger McCann stated there are 23 community action agencies that together cover all Kentucky counties. Each agency allows local control so specific needs can be met. CAK utilizes a continuous process for improvement including data collection and analysis.

Todd Trapp summarized concerns presented during the June 16, 2016 meeting. It had been said that Louisville Metro Community Action Partnership had not spend all of its allocated funds. DCBS convened a workgroup to research and discuss possible solutions. A pilot program is proposed in Jefferson County that will allow applicants to qualify for the crisis component if they present a past due bill or a disconnect notice. This should limit damage to the applicant's credit.

In response to Representative Wayne, Roger McCann stated that LIHEAP, weatherization, and the CSBG block grant are expected to be zeroed out in President Trump's proposed budget. Staff must be prepared in the event the budget is passed and should educate constituents. There are efforts in Washington to lobby for the grant.

In response to Senator Webb, Roger McCann stated Apprise Consulting is performing a national study to determine what impact rate increases have on the marginalized population. There is no data yet, but it may have a negative impact.

The LIHEAP block grant findings of fact was approved by unanimous voice vote.

Protecting Transportation Infrastructure Using Natural Stream Channel Design: Saving Money and Streams

Jeremy Jackson provided an overview of water resources including streams and lakes where a significant percentage does not support fish consumption or habitat. The leading causes of impairments are sediments, nutrients, and total suspended solids. The number one source for sediment is urban and rural development.

Sediment pollution reduces revenue due to decrease in recreational activities and impaired aquatic resources while adding expensive treatment and maintenance costs. Impervious surfaces cause less water infiltration into the soil resulting in increased flooding at higher velocities. The favored solution is to straighten streams and build them wider which perpetuates the problem because more sediment is produced due to erosion. The solution should be to slow the flow of water.

Sediment causes problems with infrastructure including water line crossings, pipeline line crossings, and bridge crossings. Conventional methods for repair include pouring concrete along the banks, gabion baskets, and riprap. Natural stream channel design can improve stream stability and save money. There are multiple designs including a W-shaped rock vane, cross vane, and J-hook vane. The economic benefit to these designs is increased recreation and fishing which will generate tourism revenue and will decrease maintenance costs. There are also ecological benefits including decreased bank erosion and increased aquatic habitat.

The problems with funding mechanisms include being underfunded, over-restrictive, and a focus not at the county level. The proposed approach includes a combination of using natural stream channel design and greater access to funds from various sources.

In response to Senator Webb, Rick Wolf stated that problems can be prevented with good bridge design.

In response to Representative Brown, Jeremy Jackson stated the design is not being used for Mountain Parkway bridge construction.

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

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 1st Meeting of the 2017 Interim

June 27, 2017

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, June 27, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Bart Rowland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Julie Raque Adams, Jared Carpenter, Rick Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, Albert Robinson, John Schickel, and Dan "Malano" Seum; Representatives Will Coursey, Jim DuPlessis, Joseph M. Fischer, Jim Gooch Jr., Jeff Greer, Adam Koenig, Stan Lee, Chad McCoy, Michael Meredith, Steve Riggs, Wilson Stone, Scott Wells, and Addia Wuchner.

Guests: Austin McKay; Jolie Matthews, National Association of Insurance Commissioners; Greg Humkey, Christina Heckathorn, and Mindy Farnsley, Kentucky Association of Health Underwriters; Christi LeMay, Executive Vice President, Professional Insurance Agents of Kentucky; David Thornton, Greater Lexington Insurance; Commissioner Nancy Atkins, Deputy Commissioner of Policy Patrick O'Connor, and Deputy Commissioner of Administration Tony Butcher, Kentucky Department of Insurance.

LRC Staff: Sean Donaldson, Jessica Sharpe, and Dawn Johnson.

Surprise Billing

Jolie Matthews, National Association of Insurance Commissioners (NAIC), spoke on the NAIC's Health Benefit Plan Network Access and Adequacy Model Act developed to address plan issues including surprise medical billing. She explained that surprise billing is the difference between an insurer's payment to a provider and the provider's charges which most often occurs when a consumer receives services from out-of-network providers, whether intentionally or unintentionally. Ms. Matthews discussed requirements for participating facilities with non-participating facility-base providers. The NAIC report concluded that the best way to insulate the consumer from the dispute was requiring the carrier and the out-of-network provider to settle a payment issue through arbitration or other means. The carrier can elect to pay the provider's bill as submitted or pay in accordance with an established benchmark set by the state. A state can set benchmark payments based on the higher of the health carrier's contract rate or a percentage of the Medicare payment rate for the same or similar services in the area. Ms. Matthews outlined dispute resolution approaches used by other states. Key questions that arose include: defining an appropriate payment amount, whether to regulate provider rates, should dispute resolution be mandatory or voluntary, non-binding or binding, and whether to have arbitration where the reviewer chooses one of the two parties' final offers.

Responding to Chairman Rowland's question, Ms. Matthews said specific carriers were not identified, however, Preferred Provider Organizations were most often involved. Consumers choosing lower cost plans experienced more surprise billings due to out-of-network services. no state has implemented the NAIC's approach. Approximately nine states have developed a resolution process. Most states look to New York's resolution approach.

Chairman Rowland noted the members' folders included a report from the National Academy for State Health Policy titled "Protecting Patients from Medical Debt: State Legislative Tools to Address Surprise Billing in the Health Care Industry."

Austin McKay, an insurance agent from Bowling Green and former president of Kentucky Association of Insurance and Financial Advisers, spoke about surprise billing issues his clients have recently experienced. He said patients should be made aware when doctors working in hospitals are out-of-network or ensure that anyone working in a hospital is in-network.

Co-Chair Bufford suggested filing legislation as a means to discuss the issue with hospital representatives.

Responding to Representative Stone's questions, Mr. McKay said any provider practicing in a hospital should have to accept the hospital's networks. He said some insurance plans are chosen based on the hospital the client prefers.

Senator Seum noted that small communities are limited in where they receive healthcare.

Christina Heckathorn and Greg Humkey, Benefit Advisors with Employee Benefit Associates, Inc.; and Mindy Farnsley, Benefits Specialist with Preferred Benefits explained some of the recent surprise billing issues their clients have experienced.

Representative DuPlessis questioned why consumers can be billed extravagant rates for some medical services such as $45,000 for air ambulance services. Representative Rowland and Representative Greer said the air ambulance billing issue is separate in itself and will be a topic of discussion at July's National Conference of Insurance Legislators.

Representative Riggs said, as an agent, he finds it complicated to track in-network providers and consumers are expected to be more sophisticated than they should have to be to navigate the system.

Referring to previous testimony, Representative Gooch said allowing policyholders to change policies solely to cover upcoming medical procedures may be a part of the healthcare problem.

Representative Meredith said a big issue is services performed outside the doctor's office such as laboratory or radiologic services.

Senator Girdler expressed concern about policy holders increasing insurance plans to cover upcoming procedures.

Representative Wuchner said there is a gap in purchasing a plan and understanding what is covered. Hospitals are inundated with unpaid bills as a result. Responding to Representative Wuchner, Ms. Farnsley said she rarely sees precertification or shopping for less expensive services.

Credit Card Processing Fees Paid by Insureds

Christi LeMay, Executive Vice President, Professional Insurance Agents of Kentucky, and David Thornton, Greater Lexington Insurance explained that some insurance agents provide a payment service allowing clients to pay for their insurance in the agent's office. If the agent chooses to accept credit card payment the agent must absorb the 3 to 3.5 percent credit card fee resulting in the loss of almost half their revenue to provide that service. Most agents find the 18 to 20 percent that finance companies charge onerous and will therefore accept credit card payment. Mr. Thornton asked that agents be allowed to pass on the actual credit card company charge to the consumer instead of the agent having to absorb the fee.

Responding to Senator McDaniel's question, Mr. Thornton said an insurance agent is not allowed to accept additional fees and are only allowed a set commission. Mr. Thornton explained that this refers to a specific segment of the population who cannot produce the $2,000 to $5,000 insurance premium and would like to pay via credit card. He noted that the average premium through his agency is less than $2,000 per year.

Responding to Representative DuPlessis, Mr. Thornton said the Department of Insurance does now allow agents to build in a percentage of the fees they are paid to cover such a transaction due to specifically defined sources of revenue.

Kentucky Department of Insurance

Newly appointed Commissioner Nancy Atkins, Deputy Commissioner of Policy Patrick O'Connor, and Deputy Commissioner of Administration Tony Butcher introduced themselves and gave a brief overview of the department.

Responding to Representative Greer's question, Commissioner Atkins said the captive market is currently stable.

There being no further business to come before the committee, the meeting adjourned at 11:40 AM.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES

Minutes of the Second Meeting of the 2017 Interim

July 17, 2017

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Monday, July 17, 2017, at 10:00 a.m., in Room 129 of the Capitol Annex. Representative Addia Wuchner, Co-Chair, called the meeting to order at 10:07 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, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, and Max Wise; Representatives Danny Bentley, George Brown Jr, Joni L. Jenkins, Mary Lou Marzian, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, and Russell Webber.

Guests: Melissa L. Currie, MD, FAAP, Medical Director and Chief, Kosair Charities Division of Pediatric Forensic Medicine, and Professor of Pediatrics, Department of Pediatrics, University of Louisville School of Medicine; Jill Seyfred, Executive Director, and Joel Griffin, Prevent Child Abuse Kentucky; Abby Carter Emanuelson, Associate Vice President for Advocacy and Activist Engagement, National Multiple Sclerosis Society; Keith Johnson, CPA, Robbins Enterprises; Wesley R. Butler, Attorney, Barnett Benvenuti & Butler PLLC; William C. Thornbury, Jr., MD, FAAFP, President, Kentucky Academy of Family Physicians, Kentucky Medical Association Board Member, and Chair of the Medicaid P&T Committee; Paula Schenk, MPH, RN, Executive Director, and Nathan Goldman, General Counsel, Kentucky Board of Nursing; Mark Milner R.N., BA, MHA, MBA, Chief Nursing Officer and Vice President of Medical Staff Services, Ephraim McDowell Regional Medical Center; Dr. Jessica Estes, President, Kentucky Coalition of Nurse Practitioners and Nurse Midwives; Mary Katherine DeLodder, The Kentucky Home Birth Coalition; Vickie Yates Brown Glisson, Secretary, Kristi Putnam, Project Manager, and Jill Hunter, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Scott Brinkman, Secretary of the Executive Cabinet; Adam Meier, Chief of Staff for Policy, Office of the Governor; Sarah S. Nicholson and Mike Rust, Kentucky Hospital Association; Liz Shepherd, Kentucky Justice Association; William Simpson, President, and Ben Donaldson, Director of Government Relations, DisposeRx; Jennie Varrousek, University of Louisville Pediatric Forensics; Steve Hart, Kentucky Board of Pharmacy; Cyndee Burton, Matthew 25 AIDS Services; Phyllis Sosa and Kristi Gentry, Department for Aging and Independent Living, Cabinet for Health and Family Services; Kim Hinkel, KIPDA, and Bob Silverthorn, Office of Inspector General, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Ben Payne, Sarah Kidder, Heather Scott, and Gina Rigsby.

Approval of the Minutes from the June 21, 2017 Meeting

A motion to approve the minutes of the June 21, 2017 meet was made by Senator Adams, seconded by Senator Alvarado, and approved by voice vote.

Consideration of Referred Administrative Regulations

201 KAR 2:074 – establishes requirements for pharmacy services in hospitals or other organized health care facilities; **201 KAR 22:070** – establishes the requirements a foreign-educated physical therapist shall satisfy to become credentialed in the state of Kentucky;

201 KAR 26:125 – establishes the requirements for the granting of designation of health service provider for a licensed psychologist who supervises a psychological health care service; **201 KAR 26:130** – protects and safeguards the health and safety of the citizens of Kentucky and provides procedures for filing, evaluating, and disposing of complaints by the Board of Examiners of Psychology; **201 KAR 26:140** – establishes procedures for a hearing upon the filing of a grievance to the Kentucky Board of Examiners of Psychology alleging a violation of KRS Chapter 319; **201 KAR 26:145** – establishes a code of conduct for a person practicing psychology; **201 KAR 26:155** – establishes the requirements for applicants for licensure, and the conditions for a temporary license as a psychologist;

201 KAR 26:160 – establishes the application and renewal fees for credential holders by the Board of Examiners of Psychology; **201 KAR 26:165** – establishes the requirements for inactive status for a credential holder for a period of up to three consecutive years by the Board of Examiners of Psychology; **201 KAR 26:171** – establishes the requirements for supervision of a certified psychologist, licensed psychological associate, candidate for licensure, or a credential holder sanction by the board;

201 KAR 26:175 – establishes the continuing education requirements for renewal of a license by the Board of Examiners of Psychology; **201 KAR 26:180** – establishes the requirements for licensure as a psychologist by reciprocity; **201 KAR 26:185** – establishes the requirements for granting a license to an applicant who is licensed in another state that does not have an agreement of reciprocity with the Board of Examiners of Psychology;

201 KAR 26:190 – establishes requirements for supervised professional experience for licensure as a psychologist; **201 KAR 26:200** – establishes requirements for licensure as a psychologist; **201 KAR 26:210** – establishes educational requirements for licensure as a psychological associate;

201 KAR 26:215 – establishes the requirements for registering in Kentucky as a nonresident psychologist; **201 KAR 26:225** – establishes the renewal and reinstatement processes by the Board of Examiners of Psychology;

201 KAR 26:250 – establishes the requirements for the employment of a licensed psychological associate; **201 KAR 26:280** – establishes the requirements for applicants for licensure and the conditions for a temporary license of a psychological associate; **201 KAR 26:290** – establishes the requirements for an applicant for licensure as a psychological practitioner; **201 KAR 32:050** – establishes the code of ethics for licensed marriage and family therapists and marriage and family therapist associates; **201 KAR 32:060** – establishes the requirements for continuing education and the methods and standards for the accreditation of continuing education courses; **201 KAR 46:035** – establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts; **201 KAR 46:040** – establishes requirements for licensure, renewal, and reinstatement for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist;

201 KAR 46:060 – delineates the requirements for continuing education and prescribes methods and standards for the approval of continuing education courses required by the Board of Medical Imaging and Radiation Therapy; **201 KAR 46:070** – establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator and penalties for violation of licensure requirements; **201 KAR 46:090** – establishes, consistent with the requirements of KRS Chapter 13B, the procedures to be followed by the Board of Medical Imaging and Radiation Therapy in hearing appeals of actions taken under the public health laws of the Commonwealth; **902 KAR 20:053** – repeals 902 KAR 20:054, Health maintenance organizations; operations and services; **902 KAR 22:011** – repeals 902 KAR 20:010 and 902 KAR 20:030 as these two administrative regulations establish responsibilities for the Kentucky Board of Family Health Care Providers that is no longer active; **902 KAR 55:076** – repeals 902 KAR 55:100, Laetrile manufacturing standards; **906 KAR 1:081** – repeals 906 KAR 1:080 because the Office of Inspector General is no longer responsible for the certification of private review agents; **906 KAR 1:091** – repeals 902 KAR 1:090 because the Office of Inspector General is no longer responsible for conducting audits to determine allowable costs and reimbursement under Kentucky's Medicaid Program for those services listed in 906 KAR 1:090, Section 3; and **910 KAR 1:210** – establishes a statewide Long-term Care Ombudsman Program. A motion to approve the referred administrative regulations was made by Senator Alvarado, seconded by Senator Adams, and approved by voice vote.

Telehealth Care – 2017 Legislation

Representative Steve Riley stated that in Kentucky, there is an extreme shortage of physicians. House Bill 450 from the 2017 Regular Session would allow primary physicians to use technology to have visits with patients. Even though a person has an appointment, it could take several hours to get back to see the doctor. Most people cannot wait long periods of time to see the doctor, so telehealth would be a way for people to see the doctor without having to wait long periods of time for a diagnosis and treatment.

William C. Thornbury, Jr., MD, FAAFP, President, Kentucky Academy of Family Physicians, Kentucky Medical Association Board Member, and Chair of the Medicaid P&T Committee, stated that the Kentucky Academy of Family Physicians and the Kentucky Medical Association have passed a joint resolution supporting the intent of HB 450. Kentucky has one of the most chronically ill populations in the country, and there are not enough healthcare providers. Many people are utilizing emergency rooms and not seeing their own primary care physician. HB 450 would require payment for like-kind services from private insurance providers to Kentucky's health provider if they have an established and ongoing care relationship with a patient. The intent of the legislation is to provide a fair market for telemedicine technology. Kentucky providers have a compulsory burden to build and maintain a physical plant. Studies conclude that if there is no payment parity, there is no incentive for health providers to invest in telehealth care versus in-office care. Seventy-five percent of healthcare dollars is from chronic disease care delivery. Chronic disease care cannot be provided by different off site providers, because a provider has to establish a relationship with the patient. The benefits of telemedicine include 1) saving money, time, and resources; 2) opening access, 3) leveling access to doctor; 4) easing medical manpower shortages; and 5) provides better health outcomes, quality, and lower costs by staying with the same physician.

In response to questions or comments by Senator Alvarado, Dr. Thornbury stated that there is always a potential medical liability, and providers should be compensated for taking more risks for on-line treatment. Documentation always has to be provided to insurance companies. It is not worth investing in telehealth technology if that physician is not reimbursed the same as other providers. Telemedicine can provide a more efficient delivery of care.

In response to questions by Senator Givens, Dr. Thornbury stated that Kentucky will move from a fee-for-service model to an outcome-based model with a capitated fee. There needs to be a certain amount of providers online to make healthcare more affordable.

In response to a question by Representative Marzian, Dr. Thornbury stated that Kentucky needs to do whatever is necessary to make access to broadband services available to citizens in rural and urban areas. Kentucky has no choice but to find a solution. Representative Riley stated that all stakeholders need to get together to make this come to fruition.

Pediatric Head Abuse Trauma

Melissa L. Currie, MD, FAAP, Medical Director and Chief, Kosair Charities Division of Pediatric Forensic Medicine, and Professor of Pediatrics, Department of Pediatrics, University of Louisville School of Medicine, and Board-certified child abuse pediatrician, stated that infants with abusive head trauma (AHT) may look completely normal and uninjured on the outside, but have serious injuries on the inside. The signs and symptoms can be hard to notice and easily mistaken for a less concerning problem and therefore missed and/or misdiagnosed by medical professionals. AHT is the most dangerous and dearly form of child physical abuse. Legislation for mandatory recognition training was enacted by 2010 House Bill 285, 2014 House Bill 157, and 2015 Senate Bill 119. Global brain injury is caused by rotational or angular forces that involves shaking, impact, or both. It is not typically a one-time event. It is very rare for a child to die from or be permanently disabled from maltreatment the first time the child is abused and/or neglected. Any bruising of the torso, ears, or neck (TEN-4 exam) in a child four years of age or younger or any bruising, anywhere, on a non-mobile infant is not normal. Situations that trigger abuse include a crying baby, a child's misbehavior, an argument or family conflict, toilet training, escalation of physical punishment, and parental stressors outside the home. The top risk factors for fatal abusive injury include substance abuse, domestic violence, criminal history, and undiagnosed or untreated mental illness among adult caregivers in the home.

Jill Seyfred, Executive Director, and Joel Griffin, Prevent Child Abuse Kentucky (PCAK), stated that its mission is to prevent the abuse and neglect of Kentucky's children. Kentucky is ranked second in the nation in 2015 for child maltreatment. Lifetime cost for the 22,090 confirmed victim in Kentucky for Calendar Year 2016 is $4,639,165,080. The top risk factors include substance abuse and family violence. There are services available in all 120 counties. There needs to be an increase in education and awareness of child abuse. PCAK currently offers 14 different trainings on topics ranging from recognizing and reporting, internet safety, and working with families in substance abuse recovery. PCAK staff can develop a training to address a specific need or subject. Milestones in PCAK's prevention efforts include the development of on-line web-based trainings for child care, nursing, and physicians, and the training of over 37,000 child care staff, and trained over approximately 4,000 social workers, childcare staff, and professionals in face-to-face sessions. PCAK's goal is to provide multiple exposures to information parents need when they most need to hear it.

Hospital Peer Review

Wesley R. Butler, Attorney, Barnett Benvenuti & Butler PLLC, stated that peer review is any process by which someone reviews a peer's clinical practice. Many times it focuses on clinical judgment, professional judgment and skill to provide feedback to a practitioner for areas of improvement. There is no model peer review process that everyone can follow. Peer review is retrospective. The idea is to look back and evaluate the case and the clinical judgments made, and the skills used for the purpose of improving future care. Peer review influences care on future patients. It is not included in a patient's medical record and has no influence on a patient's care. Peer review is self-critical. It is intended to be an evaluative process about questioning how care is provided and how to improve that care in the future. Peer review is not an investigation but an evaluation of the medical record to determine the clinical judgment behind a decision. Peer review is not a disciplinary process but a quality process intended to identify ways to improve quality of care. If there are issues with the case that need to be referred to others, it goes through a separate process for disciplinary action. All 50 states and the federal government have laws that are intended to encourage medical peer review. Kentucky has had peer review legislation since 1976. In 1977, there was a case that reviewed the peer review legislation and determined that it violated Section 51 of the Kentucky Constitution because the bill's title matches did not match subject matter. In Kentucky, generally courts have ruled that a peer review has to be accessible to discovery. Peer review happens in a robust manner when it can be done confidentially.

In response to questions by Senator Alvarado, Mr. Butler stated that the way the Kentucky courts interpreted the law, the statute was to protect the peer reviewers and not the peer review process even though the language says any civil action. There is no statute or protection that prohibits a plaintiff from the facts of a case. Information and facts are always available through discovery. Peer review is about opinions on how to improve patient care in the future and not about the facts.

In response to questions by Representative Wuchner, Mr. Butler stated that the facts, the medical record, the practitioners, and the care providers involved in the case are always available for discovery. Kentucky is the only state that does not protect the peer review process.

Senator Meredith stated that the lack of protection of the peer review is problematic for rural communities, because doctors are reluctant to be involved in a peer review of a colleague. The intent of the peer review is to improve the quality of care rendered to a community and not to be potentially required to testify against a colleague. It is to be engaged in true peer review and helping them become better practitioners.

Liz Shepherd, Kentucky Association, stated that the proposed legislation protects hospitals and nursing homes from telling the truth, shields the facts of what really occurred, and encourages and prolongs litigation because facts are unavailable.

In response to questions by Senator Alvarado, Ms. Shepherd stated that medical lawsuits are filed and won in other states. Some states have carved out exceptions.

In response to a question by Senator Buford, Ms. Shepherd stated that her interpretation of the proposed legislation is the information from an internal peer review would be shielded permanently from discovery even with the court order.

Livable Home Tax Credit Program

Abby Carter Emanuelson, Associate Vice President for Advocacy and Activist Engagement, National Multiple Sclerosis Society, stated that most people with multiple sclerosis (MS) are diagnosed between the ages of 20 and 50 with at least two to three times more women than men being diagnosed with the disease. MS affects more than 2.3 million worldwide and nearly 6,000 in Kentucky. MS is an unpredictable, often disabling disease of the central nervous system that disrupts the flow of information within the brain, and between the brain and the body. As the disease progresses, severity and specific symptoms may worsen which may require them to need an aid, such as a cane or crutches, and some will use a scooter or wheelchair because of fatigue, weakness, balance problems, or to assist with conserving energy. Additionally, during the course of the disease, individuals may be at risk to falls. People with MS typically fall in or around their homes and neighborhoods, usually while doing basic activities like bathing and preparing meals. The cost of skilled nursing in Kentucky is more than $6,000 per month with the state potentially picking up a portion of those costs for some of these individuals. Falls are associated with loss of confidence, social isolation, curtailment of activities, and fear of increased risk for more falls. One of the recommended responses to addressing falls is practical lifestyle adjustments, and the National MS Society believes a practical adjustment is an accessible, livable home where individuals and their families can live safely and with greater confidence.

Home modifications are changes made to adapt living spaces to meet the needs of people with physical limitations so that they can continue to live independently and safely. The modifications may include assistive technology or making structural changes to a home. For individuals with MS, an accessible home with the necessary modifications can help them cope with many of their symptoms, maintain independence and live a high-quality life. Although critical for safety and independence, home modifications can be expensive and place a large financial burden on individuals with disabilities and their families. Costs range from $100 to $50,000 depending on the scope of work. In 2015, the Kentucky median income of households that include any working-age people with disabilities was $31,800. It is estimated that the cost of living with MS and paying for the care that is required is approximately $70,000 per year per person. For a middle income wage earner, paying for accessibility modifications may be out of reach. An incentive would be an opportunity for people to receive help paying for modifications.

Georgia, Illinois, Kansas, Louisiana, Maine, Maryland, Missouri, New Hampshire, and Virginia have an existing home modification tax credit program or are in the process of developing one. Maryland and Louisiana have established a tax incentive for livable homes. Having stable, affordable, and accessible housing not only increases quality of life and promotes independence for people living with disabilities, but it allows them to remain actively engaged in the workforce and community, which benefits society as a whole.

Keith Johnson, CPA, Robbins Enterprises, and Society Trustee for the Kentucky-Southeast Indiana Multiple Sclerosis Society Chapter, stated that in 2006 he was diagnosed with a relapsing and remitting MS, and in 2013 had to start using a wheelchair full time. While he was able to afford to build a home with modifications, modifications to home can be expensive to people on a fixed income. A tax credit incentive managed by the Kentucky Department of Revenue could be offered to help people who cannot afford these modifications. A limitation could be placed on the dollar amount that a person receives or on someone's income level.

Midwifery Legislation in the Commonwealth

Mary Katherine DeLodder, The Kentucky Home Birth Coalition, stated that it is not a matter of midwives trying to advance their profession but a matter of families asking for access to midwives who assist with home births. In the 1950s, the General Assembly passed legislation that required midwives to have a permit in order to practice. In 1975, the administrative regulations relating to that legislation were amended to say that no new permits would be issued. The idea was that nurse midwives, different from the certified professional midwives, would fill in the gaps. Currently, there are only four nurse midwives who are attending home births, and the other 85 practice exclusively in hospitals. There are approximately 700 home births per year in Kentucky that are attended by other midwives who basically have to hide their participation in the births while the medical community overlooks their participation. Concerns about the midwifery legislation introduced during the 2017 Regular Session are that some provisions included in the legislation could be addressed better in regulation and that would meet International Confederation of Midwives global standards for midwifery education requirements endorsed by the American College of Nurse Midwives and the American College of Obstetricians and Gynecologists.

In response to a question by Senator Adams, Ms. DeLodder stated that there is unclear language about the definition for a high-risk pregnancy, gestational diabetes controlled by insulin or by diet, and limitations if someone had a previous C-section birth.

In response to a question by Senator Buford, Representative Wuchner stated that legislation that will be introduced in the 2018 Regular Session is the same language introduced during the 2017 Regular Session.

Representative Addia Wuchner stated that the 2017 legislation would define certified professional midwife (CPM) and midwifery, create a Certified Professional Midwives Advisory Council under the Kentucky Board of Nursing (KBN), require CPMs to follow public health laws relating to reporting disease and recording vital statistics, require a CPM to keep appropriate medical records, list required administrative regulations to be promulgated by the KBN, permit the KBN to require a criminal background investigation of a CPM applicant, make it unlawful to provide midwifery services without permit or operate a midwifery training program or school without KBN approval, require reporting of unlawful provision of midwifery services, provide religious exemption for traditional birth attendants, list prohibited pregnancy conditions for which a CPM may not provide services, and provide immunity from liability for health care professionals from acts or omissions of a CPM.

Paula Schenk, MPH, RN, Executive Director, Kentucky Board of Nursing, stated that if it is the will of the legislature, the KBN is willing to take the responsibility of regulating permitted midwives.

Jessica Estes, President, Kentucky Coalition of Nurse Practitioners and Nurse Midwives, stated that it is appropriate for women to have alternatives to be able to choose how and when they want to give birth, but there are standards and criteria that must be met for the safety of the mother and baby. All home birth deliveries should be tracked appropriately, CPMs with appropriate education and credentialing should be licensed in Kentucky and graduate from accredited midwifery programs. The coalition cannot support vaginal births after a C-section (VBACs), multiple births, or breech births that occur in a home setting because they are high-risk and at-risk for additional complications. Given the number of CPMs that may exist in Kentucky, it is not a financially feasible model to have a separate board, but oversight could fall under a board that already is in existence.

Mark Milner R.N., BA, MHA, MBA, Chief Nursing Officer, Ephraim McDowell Regional Medical Center, and the District Director of the Kentucky Organization of Nurse Leaders, stated that CPMs should have oversight from the KBN, CPMs should be credentialed appropriately, there should be oversight for high-risk births, focus needs to be on public safety, CPMs should be accountable for the care they deliver as in any health profession, records need to be clear and shared, and there needs to be public reporting.

In response to questions by Senator Buford, Mr. Milner stated that if a police officer, fireman, or anyone else assisted in a birth, it can be handled in ways that are consistent with other liability limitations. Director Schenk stated that she did not have information on the cost of training and education of professional midwives. Senator Buford stated that the information could be given at a future meeting. Mr. Milner stated the situation as outlined in the proposed legislation in Section 7 creates a provider relationship with a CPM. The hospital would be available for support and intervene as appropriate. Representative Wuchner stated that the language was put in the proposed legislation that if something happened to a mother and/or baby while in the care of the CPM and after consultation with hospital staff and then having to be transferred to the hospital, the hospital staff would not be liable for something that took place when the mother and/or baby were in the care of someone else.

Representative Bentley stated that liability is a huge reason many doctors have quit delivering babies. Small rural hospitals are struggling and even filing bankruptcy because allot more patients are on Medicaid which has a lower reimbursement rate.

Representative Wuchner stated that if someone is going to have a VBAC at home, a hospital has to be set up and ready for that patient in case there are complications. Rural hospitals cannot afford to keep medical staff on standby 24/7 just in case there is an emergency.

In response to questions by Senator Alvarado, Dr. Estes stated that a VBAC is a high-risk delivery. Director Schenk stated that it is out of the board's prevue to determine medical negligence if a nurse midwife knows about a VBAC and does not let anyone know and then there are complications. The incident would be investigated, and the board could find that the case did constitute a violation of the standard of practice. Mr. Milner stated that if an OB/GYN wanted to perform a VBAC in a hospital, it is the hospital's obligation to have an operating room and team available and on standby because it is such a high-risk birth. Critical access hospitals have one operating room and one operating room team, so staff would be available for the birth, because if there are complications, the timeframe is critical. Death could occur if someone does not receive medical help ASAP.

Senator Alvarado stated that the liability for police officers and any layperson does not qualify under the definition of the bill and is outside its purview. If there is no protection from liability for a hospital and its staff, advice will not be given over the phone. The hospital staff would tell the midwife to bring the person to the hospital and the hospital would take care of the patient. Hospitals are required to take care of someone who shows up in the emergency room no matter what.

In response to questions by Senator Adams, Director Schenk nor Mr. Milner had the percentage of VBACs in hospitals that end up being an emergency C-section. Mr. Milner stated that Ephraim McDowell Regional Medical Center refers individuals to facilities who have additional resources required to perform a VBAC. Dr. Estes stated that high-risk multiple births in the western part of the state are sent to the University of Louisville, but not all multiple births are high risk.

In response to questions by Senator Kerr, none of the presenters were able to give the number of OB/GYNs available to perform home births in Kentucky. Dr. Estes stated that the challenge with nurse midwives is there are limitations on collaboration that determine what can or cannot be done including home births.

In response to questions by Senator Buford, Director Schenk stated that if there is a complaint about a cultural or religious traditional birth attendant practicing midwifery, the board would investigate and ask the attendant for verification of the cultural or religious exception. Representative Wuchner stated that the birth attendant would serve only women and families within that distinct culture or religious group.

In response to questions by Senator Meredith, Dr. Estes stated that nurse midwives are already licensed and credentialed and have malpractice insurance to cover services. The CPMs would be an additional group of non-nurses adding a license in Kentucky. Senator Meredith voiced his concern about who would be financially responsible for liability if something went wrong and the CPM does not have malpractice insurance.

Kentucky HEALTH 1115 Medicaid Waiver: Summary of Changes

Vickie Yates Brown Glisson, Secretary, Cabinet for Health and Family Services, stated that the original 1115 Medicaid waiver was filed with the Centers for Medicaid and Medicare Services (CMS) in June 2016. Revised waivers were filed with CMS in August 2016 and July 2017.

Kristi Putnam, Project Manager, Cabinet for Health and Family Services, stated that implementation of Kentucky HEALTH Phase #1 will begin January 1, 2018; Phase #2 on April 1, 2018, and Phase #3 on July 1, 2018. Kentucky HEALTH does not include traditional Medicaid recipients (aged, blind, and disabled) or former foster youth up to age 26. Kentucky HEALTH covers non-disabled adults and children covered before the expansion, pregnant women, children, and the adult expansion population.

Adam Meier, Chief of Staff for Policy, Office of the Governor, stated that proposed modifications to the original 1115 waiver application include static community engagement hours, lock-out period for failure to report a change in circumstances, and maintenance of current presumptive eligibility sites. Modification to community engagement hours were proposed to avoid confusion for members by aligning the community engagement hours with the Supplemental Nutrition Assistance Program (SNAP) requirements for non-exempt individuals. Non-exempt individuals will receive detailed communications and formal notices prior to the roll-out in their region. The information will include the initial three-month period and subsequent community engagement requirement. Even if a member enters a lock-out period, early re-entry will be offered through completing a Health Literacy or Financial Literacy course and obtaining an updated certification of eligibility. Members will be notified of their responsibility to timely report changes at application and recertification periods through the rights and responsibility documents. The expansion of presumptive eligibility is not necessary to ensure timely enrollment into Kentucky HEALTH. Fast Track provides individuals an alternative opportunity to expedite enrollment by pre-paying their premium obligations and activating coverage as early as the first of the month of application. Waiver modifications can be found at http://chfs.ky.gov/kentuckyhealth. The public comment period closes on August 2, 2017 at 11:59 p.m.

In response to questions and comments by Senator Meredith, Mr. Meier stated that Kentucky ranks 47th in workforce participation rates. Forty percent of health outcomes are determined by socio-economic situations, and it is important to take an approach that does not just enroll people in Medicaid, but focuses on how to get people better health outcomes. The focus is to move people out of Medicaid not kick them off the roles. Everyone who has access to services today, will still have access to services if the Medicaid waiver is approved.

In response to a question by Representative Jenkins, Mr. Meier stated that the income requirement is not a new requirement. If there is an unreported income change, the case would be referred to the Office of Inspector General by the DCBS caseworkers. The OIG will then determine, dependent on resources, whether to pursue civil or criminal charges. Because the lock-out mechanism for an eligibility change was part of the original 1115 waiver, IT capabilities have already begun. Taking a class to re-enroll will create an automatic trigger into the eligibility system to show if someone is eligible again. There is already a rights and responsibility document available at enrollment. Some regions will be subject to SNAP employment requirement and community engagement requirement on July 1, 2018. All the other counties will be phased in after that date.

In response to a question by Senator Alvarado, Mr. Meier stated that there is a three-mouth phase in for any new member before that recipient would have to meet the 20-hour requirement. Ms. Putnam stated that, if someone meets SNAP requirements, that person is considered meeting the requirements for Medicaid services. It is not a dual requirement.

In response to questions by Representative Marzian, Mr. Meir stated that approximately 50 percent of Medicaid recipients are employed. The cabinet tried to have geographical diversity for the voluntary public forums to get feedback from the public. There should be a $20 million savings from moving from kynect to healthcare.gov to help pay for changes in Kentucky HEALTH. Secretary Brinkman stated that there are approximately 850,000 individuals on the traditional Medicaid roles. Kentucky HEALTH has nothing to do with traditional Medicaid. Of the 440,000 Medicaid expansion recipients, approximately 200,000 are able-bodied individual not medically fragile and unemployed. If a recipient works 20 hours, the recipient is not subject to the community engagement requirement. The MCOs will work with physicians to make decisions on who is considered medically fragile.

In response to a question by Senator Danny Carroll, Mr. Meier stated that so far, there is no healthcare legislation that has been proposed by the federal government that would stop Kentucky from pursuing the 1115 waiver.

Adjournment

There being no further business, the meeting was adjourned at 12:55 p.m.

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

Minutes of the 2nd Meeting of the 2017 Interim

July 13, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, July 13, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Albert Robinson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Tim Moore, Co-Chair; Senators Julian M. Carroll, C.B. Embry Jr., Denise Harper Angel, Ernie Harris, Dennis Parrett, Wil Schroder, Whitney Westerfield, Mike Wilson, and Max Wise; Representatives Regina Bunch, Tom Burch, Will Coursey, Jeffery Donohue, Myron Dossett, Jim DuPlessis, Chris Harris, Mark Hart, Dan Johnson, DJ Johnson, Ruth Ann Palumbo, Brandon Reed, Rob Rothenburger, Dean Schamore, and Walker Thomas.

Guests: The Adjutant General, Major General Stephen R. Hogan, KYNG; Michael Dossett, Director, Division of Emergency Management; Jarred Ball, Board Administrator, Reorganization of the 911 Services Board; Mike Sunseri, Legislative Liaison, Kentucky Office of Homeland Security; and J.D. Chaney, Deputy Director, Kentucky League of Cities.

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

Chairman Robinson moved to adopt the June 8, 2017, meeting minutes. Senator Parrett seconded the motion. The minutes were adopted.

Pledge of Allegiance

Co-Chairman Tim Moore led the committee members and guests in the Pledge of Allegiance.

Distinguished Veteran

The Adjutant General, Major General Stephen R. Hogan was recognized and given the distinguished veteran coin in recognition of his outstanding service to the country and the Commonwealth.

Kentucky National Guard and Department of Military Affairs

General Hogan gave a PowerPoint presentation on the vision, mission, lines of effort, and mobilizations of the Kentucky National Guard, (KYNG) and the Kentucky Air National Guard, (KYANG). KYNG fully postures leaders and units to respond to a complex catastrophe for the worst night in the Commonwealth. KYNG delivers a sense of purpose, worth, and well-being to guardsmen, their families, and employers. The mission of the KYNG is to provide relevant, ready forces prepared to respond to federal and state missions.

General Hogan discussed current unit mobilizations and stated that there are 197 Army guard and four Air guard members deployed.

General Hogan announced that the Derby City National Guard Association of the United States 139th Conference and Expo will be September 7-10th in Louisville. Attending will be approximately 3,200 National Guard officers from all 54 states and territories and over 300 defense industry representatives. This event will have an economic impact of approximately $9 million.

In response to a question from Representative Burch, General Hogan stated that the National Guard has excellent dialogue with other countries.

In response to a question from Representative Rothenburger, General Hogan stated that guardsmen have had a 72 hour training and preparation, and a focus on firefighting and partnering with other civilians in case any emergency arises during the eclipse watching event in Hopkinsville.

In response to a question from Representative Harris, General Hogan explained three venues that guardsmen can use to provide water in an emergency situation. The venues they can use are taking raw water and purifying it, having it in tanks, or providing bottled water.

Proactive Planning for Major Events: Solar Eclipse

Michael Dossett, Director, Division of Emergency Management, shared a video of the pathway of the total eclipse of the sun that will occur on August 21, 2017, across the United States. Hopkinsville is the global ground zero for the eclipse. There has not been a total eclipse in 99 years, and it will be 375 years before one will be seen again. With Hopkinsville being the global best spot for the event, there will be an influx of over 100,000 people. He outlined a year's worth of preparation for state services through meetings. The agency has polled all 21 counties in the path of the total eclipse to see what they will need to keep safety a top priority. The counties that are not in the zone for the eclipse have volunteered to have their aircraft in the area to help. FEMA took note that this is a national event. FEMA's normal exercises for preparation of an event as large as the eclipse to typically take six months, but it has created it in only 60 days for this event. The longest total eclipse view will last 2 minutes and 40 plus seconds in the Hopkinsville area. The path will be 96 miles in the Commonwealth. A main issues will be transportation when all of the people begin leaving the Hopkinsville. All of the main roads will be watched for safety issues.

Mr. Dossett said that the agency will have crowd control, towing services, portable signage, communications, public works, water system, firefighting, a mobile command center, shelter locations, cooling centers, bottled water, emergency POD's, hand sanitation, portolets, emergency bus transportation, hospital centers, EMS, medevac assets, first aid stations, tent or mobile food vendors, permit inspections, HazMat teams, and social messaging to help make this a successful and safe event.

In response to a question from Senator Westerfield, Mr. Dossett explained that local people being patient will be most helpful because of the large number of visitors. No threat was been identified thus far relating to the event. The event will have a large benefit to the community's economy.

In response to a question from Representative Dan Johnson, Mr. Dossett stated that there should be no issues with satellite or cell phones and that the total eclipse will take one and one-half hours to cross the Commonwealth.

Reorganization of the 911 Services Board, Executive Reorganization Order 2017 - 298

Mike Sunseri spoke on the Executive Reorganization Order 2017 – 298. Jarred Ball was at the meeting to help answer any questions members might have. Mr. Sunseri briefly discussed the executive reorganization order and said that it is administrative in nature and does not change any funding structure.

J. D. Chaney with the League of Cities spoke in opposition of the executive reorganization order and stated that a reorganization via legislation just went into effect last year for the purpose of adding more local elected officials for representation and the League of Cities hopes that when codification of the executive orders does happen, local officials will have a voting role. Mr. Chaney expressed disappointment that more local officials are not members of the 911 Services Board but said that the League of Cities will continue to work with the Office of Homeland Security to hopefully come to a resolution.

Chairman Robinson asked for a motion to take no action on the Executive Reorganization Order 2017 – 298. Senator Embry moved to take no action on the Executive Reorganization Order 2017 – 298. Senator Parrett seconded the motion. The motion passed with a voice vote.

Other Business

Co-Chair Tim Moore announced that the Veterans, Military Affairs, and Public Protection Committee's August meeting would be on August 25th at the Radcliff Veterans' Center and stated that committee staff will send out more information soon.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 2nd Meeting of the 2017 Interim

July 26, 2017

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, July 26, 2017, at 1:00 PM, 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 Joe Bowen, Co-Chair; Representatives Jerry T. Miller, Co-Chair, and Kenny Imes, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representatives Lynn Bechler, Kevin Bratcher, Tom Burch, John Carney, Will Coursey, Jim DeCesare, Joseph Fischer, Derrick Graham, Richard Heath, Dennis Horlander, Dan Johnson, DJ Johnson, Brian Linder, Reginald Meeks, Phil Moffett, Tim Moore, C. Wesley Morgan, Jason Nemes, Sannie Overly, Jason Petrie, Rick Rand, Jody Richards, Bart Rowland, Attica Scott, Tommy Turner, Ken Upchurch, and Scott Wells. (Representative David Osborne also attended and sat with the members.)

Guests: William M. Landrum III and Pamela Trautner, Finance and Administration Cabinet; William May, Huston Wells, and Laura Ross, City of Frankfort; Hank Hancock; and Don Stosberg.

LRC Staff: Judy Fritz, Karen Powell, Kevin Devlin, Michael Callan, Roberta Kiser, and Peggy Sciantarelli.

Approval of Minutes

The minutes of the June 28, 2017, meeting were approved without objection, upon motion by Senator Bowen.

Recognition of Guests

Senator Thayer recognized Lexington Catholic High School student Austin Hamelback; Representative Graham recognized members of Frankfort city and county government; and Senator Alvarado recognized a constituent who works in children's services.

"Capitol Tower Footprint" – Capital Plaza Redevelopment

William M. Landrum III, Secretary, Finance and Administration Cabinet, discussed plans for the redevelopment of Frankfort's Capital Plaza area. Pamela Trautner, a member of his staff, assisted with the slide presentation.

Secretary Landrum said that the state owns 44 office buildings with 2.6 million square feet and leases 71 office buildings in Franklin County with 1.5 million square feet. The Capital Plaza complex arose from urban renewal 45 years ago, and now the state has an opportunity to give the property back to the people of Frankfort and reduce the footprint of the state. The Capital Plaza is a state-owned crumbling infrastructure with multiple spaces and building code violations. Structural integrity of the elevated plaza slab and the drainage system has deteriorated beyond repair. Deferred maintenance in Franklin County alone amounts to more than $194 million. Secretary Landrum said he reviewed a 2007 facility survey of the complex and 2009-2011 feasibility studies by Sherman Carter Barnhart and national consultant Tom Minter. Between 2010 and 2015, state and local officials, community and business leaders, and others have been involved in numerous discussions but failed to form a consensus or establish a course of action. The state has a crumbling infrastructure in the middle of historic Frankfort, but it is not the fault of city leaders. The plan is to move forward in partnership with the city, the county, and the people of Frankfort.

In FY 2017, 53 events were scheduled at the convention center. Usage rate was approximately 14.5 percent, and venue revenue was $266,644. Tenant revenue was $374,634. About 19,000 square feet was leased to state agencies and approximately 8,000 square feet to the private sector. Most of the tenants have left. FY 2017 net revenue for the convention center and shops (-$154,681) was over 200 percent lower than in FY 2016 ($54,900). According to data provided by the Tourism, Arts and Heritage Cabinet, the estimated direct and indirect economic impact of convention center events in Franklin County increased only six percent from 2009 ($16.3 million) to 2016 ($17.3 million), while total tourist spend increased 36 percent (from $138 million to $187.6 million).

There have been no upgrades to the Frankfort convention center since it opened in 1971. It was originally designed for sporting events and exhibitions, but the majority of bookings are now not sports related. The space design is not well suited for meetings. The finishes are worn and dated. There are no sprinkler or smoke evacuation systems. ADA accessibility is deficient, and the fire alarm, data, voice, and air conditioning/ventilation systems are outdated. Safety is a concern. The building code has been grandfathered since 1971. It would cost $3.3 million to reroute utilities for the convention center and $18.9 million to bring it into code compliance. It would cost an additional $12.3 million to renovate and expand the center to meet current needs and market requirements.

Secretary Landrum said he appreciates that Senate Bill 238 (2017 RS) provided the authorization for the renewal of the Capital Plaza. He reviewed a sketch of the proposed redevelopment, which includes a new state office building and parking garage, plus demolition of the office tower, the convention center, and the shops. The hotel would receive a façade upgrade, and its parking garage would be relocated. The YMCA garage would also receive a façade upgrade. The Mero Street and Clinton Street overpasses would be demolished. The city would have the opportunity to open up Washington Street from Broadway to Mero Street if the YMCA property becomes available in the future.

Secretary Landrum reviewed the planned timeline for the project. The dates are subject to modification. State agencies are scheduled to vacate the Fountain Place shops by September 29, 2017, and private tenants by December 13. The last event at the convention center will be October 31, and salvage operations will start at that time. Conveyance of the property to the developer and lease signing are scheduled for December 13. It will be a lease back from the developer, and the state will make a one-time payment. Demolition of the Clinton Street overpass, the convention center, and the plaza horseshoe is estimated to begin on December 13, 2017. Demolition of the Mero Street overpass is scheduled for January 12, 2018. Demotion of the Capital Plaza tower and tower parking garages will start on January 27, 2018. Demolition of the Fountain Place shops is scheduled for April 16, 2018. Construction of the new state office building is scheduled to begin April 12, 2018. The project is estimated to be complete by March 2020, but it could be sooner.

Parcel B—the area now occupied by the convention center and plaza shops—has potential for a P-3 (public-private partnership) project, based on community vision and planning. The property will probably be available in about two years. Once the YMCA relocates and once the riverfront becomes available, it is intended to return those properties to the city. Secretary Landrum said he has offered to partner with the city and the county to assist in the P3 process. In May he met with local legislators, the mayor, county judge, government and private tenants, Marc Stone (hotel), and Keith Gallagher (YMCA). An op-ed was published in the State Journal on July 2. There has been ongoing community outreach with civic groups and other members of the community.

Secretary Landrum said he understands the emotional attachment to the Frankfort convention center, but it is unsafe by today's building code. He believes the plaza redevelopment is a "win" for the city, the county, and the people who live and work in Frankfort. It will enable them to focus their vision and imagination on a better Frankfort.

Senator Thayer commended Secretary Landrum for his effort and the time he has devoted to the redevelopment. He urged him to elaborate on his personal background. Secretary Landrum said he served 30 years in the Army, taking care of soldiers during times of peace and war and making decisions that affected both them and their families. With the rank of colonel, he retired as the Assistant Secretary of the Army for Finance Operations worldwide. He was responsible for the direct support of the First Tank Division and, later on, for moving money and reestablishing the banking system in Iraq. He also worked in Washington, D.C., and is a small business owner in a small town. He does not take his decisions regarding the plaza redevelopment lightly. Having inspected many barracks while in the military, he believes that the state's and Frankfort's infrastructure needs to be brought up to standard. Senator Thayer thanked him for his service to the country. Representative Miller also commented on Secretary Landrum's exemplary service.

Representative Graham commended Secretary Landrum for working with local officials in an open and willing manner. Recalling the Secretary's testimony regarding the project last August to a budget review subcommittee, he asked when the scope of the project started to expand beyond demolition of the tower. Secretary Landrum said the original focus was on the tower and realignment of utilities. He began expanding the scope of the Capital Plaza redevelopment about eight or nine months ago. In talking with the people in downtown Frankfort and the government entities that occupied the plaza shops, and after reviewing studies he had not seen before, he began to question whether the original plan would really work for Frankfort. He knows the decision to expand the scope was not well received, but in walking the grounds during the Expo festival he saw safety violations and was even concerned about people being on the elevated pad. He viewed the expansion as a new opportunity for the city and the state to come together and for Frankfort to pursue its own vision for the plaza area. He confirmed that the new Transportation Building is on a separate power grid. Renovation of the hotel façade will be at state expense, and the hotel has been promised to not have any down time during the construction period.

When Representative Graham asked whether any developers had initially expressed interest in the area, Secretary Landrum said that when the state put the property up for sale there were no responses. He offered to almost give it away to the city, and there was no response—which is understandable, considering the negative value of the property. Now that the property will be developer-ready, there have been 44 requests for an RFP. Representative Graham said his greatest fear is that a new state government administration in the future might ask the city and the county to relinquish the area. Secretary Landrum said by March 2020 he will convey the land to the developer for the purpose of executing the plan of the city, the county, and the people of Frankfort. This will put the property on the tax rolls, and the city will be in control of the property. The deed of conveyance will provide co-ownership.

Responding to questions from Representative Wells, Secretary Landrum said the state owns the Kentucky International Convention Center and another convention center which the state is refurbishing for $207 million in Louisville. State-owned buildings are not exempt from building codes. The doors have been kept open at the Frankfort convention center because it was "grandfathered." It has received no upgrades since 1971. Rerouting of the convention center's utilities would require a complete upgrade of the building, at which point the Department of Housing, Buildings and Construction would have to ensure that the building is code compliant. With respect to conveyance of property, the state has worked with local governments in other communities many times.

Representative Carney said he believes it will be a huge win for the local school districts when the property goes back on the city tax rolls. Secretary Landrum said absolutely. Given the opportunity and the timing, his vision is that the redevelopment can eventually expand to include the current YMCA property and also utilize the great potential of the river as a resource to increase tourism in the city and county.

The next speakers were William May, Mayor of Frankfort, and Huston Wells, Franklin County Judge/Executive. Laura Ross, city attorney, assisted in the slide presentation. Mayor May said the city has been asked to develop a strategy for redevelopment of the Capital Plaza area, including the site of the existing convention center. The city is working to design a community engagement process for a multiphase redevelopment strategy that includes the Capital Plaza area, greater downtown, and adjacent corridors, including the Kentucky River. The project team consists of representatives of the city, fiscal court, Downtown Frankfort Inc., Frankfort/Franklin County Tourism, and the Kentucky Capital Development Corporation. The goals are to have an executable vision designed by the citizens that will help transform Frankfort; to build upon existing plans and market studies, including the 2012 Riverfront Development Plan, 2014 Cultural Asset Inventory, and the 2017 Downtown Market Study; and by December 2017, to deliver a public input plan to the state Finance and Administration Cabinet. There will be public forums to allow citizen input in the process.

Mayor May said that, with the assistance of Secretary Landrum, Secretary of the Executive Cabinet Scott Brinkman, the city partnered with the Coast Guard, the Kentucky River Authority, state agencies, and others in a recent project to remove abandoned houseboats along the Kentucky River. The city paid for the project, which came in under budget by several thousand dollars. He thanked all the partners on that project. He said, hopefully, the redevelopment strategy will also provide an opportunity to remove outdated structures that need to be replaced and that the Frankfort community will be supportive of the strategy.

Mayor May said the city will pay a substantial amount to a consultant for the redevelopment, hopefully in partnership with fiscal court. The city does not have the internal expertise to determine what the community would support if a new multi-use facility is built. It could be a sports arena, a performing arts center, or a convention center that could be utilized for meetings and state employee training purposes. He thanked the committee for the opportunity to testify.

Judge/Executive Wells thanked the committee and expressed appreciation to Secretary Landrum for his thoughtfulness and help in working with the community. He said this is a tough time for everyone because change is difficult but that the city and the county are excited about the opportunity provided by the redevelopment.

Representative Nemes questioned why Frankfort would not have to pay anything for the property when it is returned to the city. He also asked how much the state's payment to the city in lieu of property tax would be reduced. Mayor May said that when the capital plaza project was begun the city contributed about $1.5 million to the project. The state's payment in lieu of taxes has also been substantially less than a tax that is based on square footage of the buildings. He noted too that the city had provided fire and police protection for the complex and had to purchase more than the typical amount of necessary equipment.

Representative Graham said he learned from the city's finance director that the state had contributed $1.5 million toward construction of the Capital Plaza and that the county, including Kentucky State University, had also contributed about $800,000. The city and the county have contributed toward maintenance and also to settle the construction debt for the convention center. Payments began in 1970 and continued until 2000. He also noted that when the new Transportation Building was built, the city had to pay in the millions of dollars for a new fire truck that would be capable of elevating the ladder to the top of the building.

Representative Morgan asked whether there are any plans to renovate the hotel. Marc Stone, who was present in the audience, said there are plans for some renovation and that there will be significant work done on the hotel façade.

Citizen Testimony

C. M. "Hank" Hancock, a local citizen and former state legislator, spoke about the 21 years he served in the House of Representatives. He said that during those years the legislators he served with worked toward the best outcome for the Commonwealth. There may have been disagreement, but the effort by all was sincere. Today the committee is discussing some drastic decisions involving millions of dollars of state property. When he came to the legislature in 1974, the Capital Plaza project had just gone into "full swing." It was a true bipartisan effort, begun during the term of Democrat Governor Ned Breathitt and finished during the term of Republican Governor Louie Nunn. He urged the members, as they deliberate the needs of the Commonwealth, to also consider the needs of the capital city. He suggested that they take the facts and figures presented at today's meeting and study them, drive through the plaza area, and imagine the vision they would want projected to the visiting public. He thanked the members for their service to the Commonwealth and wished them good luck in whatever decisions they make.

Don Stosberg, a local citizen, voiced his concern about the planned demolition of the convention center. He stated that the cooperation between the state and local officials occurred only after the decision on the Capital Plaza redevelopment had already been made. It is his understanding that for over 30 years the city and county and Kentucky State University paid about 100 percent of the debt service for construction of the convention center. That should allow them standing with respect to its disposal. Tearing down the convention center will have a great impact on the community. A 2004 report during the administration of Governor Fletcher included a recommendation for a convention center annex. It is widely believed that the convention center would have had more bookings if it offered meeting rooms. This could be accomplished by rehabbing the existing center or adding an annex to the building. Instead of tearing it down, it could be turned over to the city.

Mr. Stosberg questioned the credibility of the cost estimates provided in the convention center analysis. He said he had just spoken with a developer who said that the estimate to reroute utilities was much too high. He recommended that the committee thoroughly examine all of the numbers and that that all options for the convention center be considered. He questioned whether SB 238, which authorized renewal of the Capital Plaza complex, also authorized demolition of the convention center. He advised everyone to look at the redevelopment project carefully to avoid 50 years from now possibly having to tear down something else that was not well conceived.

Other Business

Representative Miller announced that the next meeting would be a joint meeting with the Interim Joint Committee on Local Government on August 23 in Richmond, Kentucky, at 10:00 a.m. at the Department of Criminal Justice Training. A luncheon and tour will be available.

With business concluded, the meeting was adjourned at 2:15 p.m.

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 2nd Meeting of the 2017 Interim

July 14, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint

Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, July 14, 2017, at 10:00 AM, at Country Boy Brewing Company, 108 Corporate Boulevard, Georgetown KY. Senator John Schickel, 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, Jimmy Higdon, Christian McDaniel, Dan "Malano" Seum, and Damon Thayer; Representatives Al Gentry, Dennis Keene, Chad McCoy, Jerry T. Miller, C. Wesley Morgan, Kimberly Poore Moser, David Osborne, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, Arnold Simpson, Diane St. Onge, and Walker Thomas.

Guests: Representative Lynn Bechler; Mark Gary, Holland Electric, Mark Kramer, Townsley Electrical Contractors, Robert Weiss, Executive Director, Kentucky Home Builders Association, Troy Corrigan, Corrigan Electric, Carol Reynolds, United Industrial Services; Jeff Hinckley, HVAC Services, Glasgow, KY, Jerry Douglas Price, Big Sandy Heating and Air, Prestonsburg, KY, Leonard Heuser, ACCO, Louisville, KY; Daniel Harrison, Partner, Country Boy Brewing, Adam Watson, Against the Grain Brewing, The Kentucky Guild of Brewers.

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

Welcome

Senator Damon Thayer, and Representative Phillip Pratt, along with Daniel Harrison, Country Boy Brewing, welcomed committee members to the new brewery and tap room. Mr. Harrison added that he appreciated the support of the legislature in expanding the micro brewing industry.

Minutes

The minutes of the June 7, 2017 meeting were approved without objection.

Licensure for Electricians

Representative Sal Santoro explained that Senator Whitney Westerfield would be the primary sponsor for the bill that was being discussed today, but Senator Westerfield had another obligation so Representative Santoro was filling in.

Mark Kramer, President of Townsley Electrical Contractors in northern Kentucky, said he started his business in 1970. When he started, there was no apprenticeship program or requirement for electrical licensure. There were a few areas that required a master electrician to have a license, with all other employees working under that license. Prior to 2003, the master's license served as the contractor's license in Kentucky. In the 1970s, in some areas of the state, the licensing board had an experience clause. The clause required the builder to acquire three or more signatures stating that he or she had been working as an electrical contractor for 5 or more years before the board would issue a license. This clause no longer exists. Another issue during the 1970s was lack of required liability insurance. Now liability insurance in the amount of five million dollars is common.

Presently, each company is required to have an electrical contractor's license, obtained through a test relating to business. Each company must have an electrician master's license, obtained by passing a test related to the National Electric Code. Each company must have at least one licensed electrician on every job site. That license can only be obtained by passing a test related to the National Electric Code. Electricians and state electrical inspectors are better educated today.

The industry is safer today; however, requirements are more stringent than necessary, which is creating a crisis in the electrical workforce. The bill that will be proposed for the 2018 Regular Session basically keeps the same rules but will lessen training time, so that if a person worked four years, the person is eligible to take the electricians test, or two years in a two-year approved training program. Ohio is taking Kentucky's electricians across the river to work because its law does not require a journeyman to have a license; only a master electrician must be licensed for a job.

Mark Gary, Holland Electric Company, Inc. Hopkinsville, KY, said in 2003, 4,203 electricians were grandfathered a license for electrical work. Similarly, 17,183 master electricians were grandfathered. Current data on renewed electrical license applications is 5,805, with only 2,220 active. Master electrician renewal applications totaled 19,561; active today are 9,117. With half of the workforce gone, the electrical industry needs help.

Bob Weiss, Executive Director, Home Builders Association of Kentucky said there is a severe workforce shortage in the industry. Two of the local chapters have schools teaching electrical, plumbing, heating and cooling and carpentry. He said safety is the main goal. If shortening the number of years required to become a journeyman electrician helps grow the workforce, his industry will support the idea.

Troy Corrigan, Corrigan Electric, Louisville KY, representing the Independent Electrical Contractors Association said he was against changing the training to two years. The association does not believe the National Code electrical requirements can be learned in two years. Kentucky is recognized as one of the top five states for electrical safety. Reducing the training to two years will put Kentucky in the bottom five. The four year training program meets guidelines of federal standards.

Carolyn Reynolds, owner of United Industrial Services, Louisville KY, said if the bill reduces the standards of training there will not be anyone who knows her line of business. The reason for licensing was to regulate safety and efficiency. No one who was grandfathered in was tested, but only had to prove they had been working as an electrician for five years. This dilutes the industry's skill set of requirements to be a master electrician. Current requirements for a journeyman license are 600 hours of education, four years of on the job training, and a proficiency test. Most states do not reciprocate with Kentucky because of the grandfather clause. Electricians who work for her in multiple states have commented that the Kentucky test is the easiest to pass.

In response to a question from Representative Koenig, Ms. Reynolds said there are two tests, a journeyman and a masters, the first test is less complicated. Journeyman, after passing the proficiency test and working in the field two more years, can take a more difficult test and become a master. Mr. Carrigan said that Experior conducts the proficiency test, adding that the problem with the attrition of electricians was the grandfathering, and those electricians now leaving because of their lack of knowledge. Mr. Kramer said the change he is asking for is to shorten the requirements for the journeyman test. The journeyman is working for a master electrician who plans the design and circuitry layout. Reciprocity is a problem in part due to Kentucky grandfathering and because of Kentucky's stringent rules for licensing.

In response to a question from Representative Pratt, Mr. Corrigan said there is a shortage in the electrical workforce. One problem is getting people trained to state and federal standards. Mr. Kramer added that the younger work force is put off by the amount of training required to become an electrician.

In response to a question from Representative Keene, Mr. Kramer said everyone has a different type of work they prefer, some excel at residential work while others prefer industrial work.

In response to a question from Senator McDaniel, Mr. Corrigan said in order to hold a state license for a journeyman a person must have four years of experience, and six years for a master license. Ms. Reynolds said that it is possible to learn to wire a house in two years. However, in two years it is not possible to also learn how to work in the industrial side of the electrical work.

In response to a question from Representative St. Onge, Ms. Reynolds said a person with extensive knowledge of the National

Electrical Code could possibly pass the written test without working experience.

Senator Bowen said that this situation was a reflection of the problem in society today. There are many fields with the same set of problems. Younger people have little interest in careers other than technology.

HB 236 (17RS BR 1011) – AN ACT relating to organ donation.

Representative Lynn Bechler said that this bill passed the House during the 2017 Regular Session. Organ donation is supported in Kentucky by asking people who have a driver's license to become organ donors. People who agree have their choice designated on their driver's license. Hospitals are required to contact the Kentucky Organ Donor Affiliates, or KODA, if someone has indicated they want to donate organs. But coroners and medical examiners are not held to this requirement. Time is of the essence in organ transplant, there is only a 24 hour window. HB 236 will require a coroner or medical examiner to notify KODA.

In response to a question from Senator Seum, Representative Bechler said penalties would be the same for coroners and medical examiners as they are for hospitals.

Licensure for the Building Trades.

Jeff Hinkley, HVAC Services, Glasgow, said HB 519 from the 2017 regular session allows people from out-of-state, with military experience of 5 years that is equivalent to a master HVAC licensure experience requirement in Kentucky to test for a HVAC license. This clause leaves out the people that are Kentucky residents who want to pass their business on to their children who have worked in the family business their entire life and have on-the-job training. Similarly, a person who has run a company for multiple years, but has not worked in the field, cannot sit for a master's test because they do not have five years of working experience or a journeyman license. This legislation will allow a parent to pass a business to a child by letting the child take the test.

Also, regarding transferring a business, Kentucky law currently states that a master contractor is allow to own one business. Therefore if an owner wanted to sell his business, a prospective buyer who is already in business would not be able to buy the second business and operate it as a separate business, retaining its old name that customers identify with. Instead, the buyer would be required to incorporate it into his or her existing business. This could potentially harm the business by reducing its name recognition in the area. The language proposed in the bill would allow a contractor to own more than one business with restrictions included to require at least a 25 percent ownership in each firm and require the contractor to be domiciled in Kentucky.

Leonard Heuser, ACCO, Inc., Louisville, said he was a licensed HVAC contractor with 39 years of experience. He said he is a small business owner. Over the years property management companies have been using unlicensed employees to transition from simple maintenance tasks to making major repairs to HVAC equipment and then bill property owners. HB 519 clarifies the definition of routine maintenance and repair work and who performs this work.

Another component of this bill is establishing a 180 day grace period in the event of the death of a company license holder. Currently if a license holder dies, that company is immediately operating as an unlicensed contractor. This will also apply to licensed master plumbers and electricians.

In response to a question from Senator Higdon, Mr. Heuser said there could be changes to make the definition of major repair less vague.

Jerry Price, Big Sandy Heating & Cooling, Paintsville, KY, stated that he, as a small business owner, was present to support this legislation as a representative of the Kentucky Association of Master contractors. He told the members that if he died today, 18 employees would be out of work. Having 180 days would give his journeyman time to take the test and keep the business open.

The Microbrewery Industry in Kentucky.

Adam Watson, one of the owners of Against the Grain Brewery in Louisville KY and President of the Kentucky Guild of Brewers, as well as Daniel Harrison, co-founder of Country Boy Brewing and Vice-President of the Kentucky Guild of Brewers thanked the members of the committee for their support in the growth and success of the industry.

Mr. Watson said growth in the craft brewing industry is nationwide. The economics of craft brewing in Kentucky are examples of small businesses creating jobs and expanding the tax base. The craft beer industry made up more than 424,000 jobs nationwide in 2016. Kentucky now has 53 licensed craft breweries and 19 additional brewery locations in the planning stage. Kentucky craft brewers directly employ more than 600 people. Brewers partner with the Kentucky Department of Agriculture; Tourism, Arts, and Heritage Cabinet; and the Economic Development Cabinet. Currently Kentucky ranks 46th in breweries per capita. The industry has a ripple effect across the state benefiting manufacturing, construction, transportation, affiliate industries, and service industries supported by the craft beer industry.

Craft breweries are locally owned and support local economies, businesses, charities, tourism, and farmers. Tap rooms and festivals draw a positive economic impact for Kentucky. The Tap room experience with special product releases and collaborative beers and special events such as the Kentucky Fest of Ales and CraftBash help boost the tourism economy.

The Guild will have a legislative request for consideration during the 2018 General Assembly. Items they wish to address are privileges or prohibitions among producers, and changes to enhance craft brewers ability of compete with craft brewers in bordering states as well as nationally. Also, to align statutory provisions with modern business practices. Their priorities are to attract and grow business, broaden the tax base, and generate revenues.

Senator Seum said in 1966, at his restaurant, he had home grown Louisville beers on tap such as Oertles '92, Falls City, Fehrs, Wiedemann's, Sterling, Hudepohl, and many others. One at a time the bigger companies bought these smaller ones, and people who worked in those breweries in the neighborhood lost their jobs. Now there are 18 small breweries in Jefferson County because of this industry and the legislative changes.

Administrative Regulations

201 KAR 34:020, 201 KAR 34:030, and 201 KAR 34:050.

Marcus Jones, attorney for the board, said that the board is now going to offer a continuing education to licensees and to Art Therapists Supervisors. Therefore the board has created a fee to process the examination. The exam will be given on paper as well as online. The online exam will be maintained by the state with a $10 per credit hour fee assessed for each examination up to three credits. Mary Beth Orton, Chair of the Board of the Kentucky Board of Licensure for Professional Art Therapists said there would be new training based on the creation of the continuing education exam.

Representative Koenig was recognized to announce that the August meeting would be moved from its regular date, August 11th to August 18th and 10:00 AM in Room 129 of the Annex.

There being no further business to come before the committee the meeting was adjourned at 11: 17 AM.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting of the 2017 Interim

July 26, 2017

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, July 26, 2017, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, Wil Schroder, Dan "Malano" Seum, and Damon Thayer; Representatives Danny Bentley, George Brown Jr, Ken Fleming, Kelly Flood, Toby Herald, DJ Johnson, Kim King, Adam Koenig, Stan Lee, Brian Linder, Jerry T. Miller, Robby Mills, Phil Moffett, Steve Riggs, Rob Rothenburger, Attica Scott, and Arnold Simpson.

Guests: Representative Dan Johnson, House District 49; J.D. Chaney, Kentucky League of Cities; Christine Upton, Kentucky Municipal Clerks' Association; Shellie Hampton and Rich Ornstein, Kentucky Association of Counties; Eric Kennedy, Kentucky School Boards' Association; Robin Kinney and Tracy Goff-Herman, Office of the Commissioner of Education; Jody Maggard, Perry County School System; Commissioner Sandra Dunahoo and Neil Cornett, Department for Local Government; Commissioner Terry Manuel, Jim Cundy, and David Kirkpatrick, Department for Libraries and Archives; David Thompson and Ashley Pack, Kentucky Press Association; Marc Wilson, Top Shelf Lobby; Commissioner Steve Milby, Duane Curry, and David Startsman, Department of Housing, Buildings and Construction; Jack Couch, KIPDA; Vince Lang, Kentucky County Judge/Executives Association; Bill May, Kentucky County Clerks' Association; and Judy Taylor, Lexington-Fayette Urban-County Government.

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

Approval of Minutes

Upon the motion of Representative Flood, seconded by Representative Rothenburger, the minutes of the June 28, 2017 meeting were approved.

Local Publication Requirements

Mr. J.D. Chaney, Deputy Executive Director of the Kentucky League of Cities (KLC), said that the League is interested in finding the most cost efficient and effective way for local governments to publish required notices and appreciates working with Mr. David Thompson of the Kentucky Press Association. There must also be an effective way to engage the public and find the right balance. The Program Review and Investigations Committee compiled a report on the costs and policy considerations for state-mandated local public notices. He encouraged members to read the report.

Ms. Christine Upton, President of the Kentucky Municipal Clerks Association (KMCA), said that the KMCA feels strongly that KRS Chapter 424 should be updated to incorporate modernized strategies for informing the public. More individuals in Kentucky have access to the internet than who subscribe to the local newspaper. The newspaper in Hopkinsville, with a population of 32,000, has 6,500 subscribers some of which do not live in the city. In the first six months of 2017, the City of Hopkinsville's website has been accessed by over 53,000 users and has had almost 163,000 page views. It seems it is not only more economically feasible to notify the public via the governing body's website, but it also provides notification to a larger audience. The public is beginning to expect cities to use their website, as well as other social media avenues, to inform the public.

Each 8.5 x 11 printed page of an ordinance costs the City of Hopkinsville approximately $200 to publish. Most ordinances are more than one page. Because of this cost, cities often elect to publish ordinances in summary which gives a more narrow scope of the law to the public than publishing the full ordinance. The City of Hopkinsville averages $15,000 a year in required publication expenses, which may not seem like a lot of money compared to the city's overall budget, but to smaller cities it is.

Regarding the statutes that address rates that newspapers can charge for publication of public notices, KRS 424.150 indicates public agencies shall be charged the lowest rate generally charged for advertising, KRS 424.160 indicates the rate shall not exceed the lowest non-contract classified rate paid by advertisers. Additionally, volume discounts given to commercial customers shall be extended to public agencies. Since newspapers' records are confidential, there is no way to verify that newspapers are charging their lowest rates as required by statute. The City of Hopkinsville often receives publication proofs and quotes that seem excessive in cost compared to other publications it has had in similar size. It is not unless the city points that out that it is offered a lower rate.

The purpose of KRS Chapter 424 is to provide notice to the public of legislative activities. There are no cities opposed to providing the public notice, and KMCA fully supports transparency. KMCA would like to do it in the most cost efficient and effective way.

Representative Meredith said that the Program Review Committee's report could be viewed on LRC's website, or staff could send a copy upon request.

Ms. Shellie Hampton, Director of Government Relations with the Kentucky Association of Counties (KACo) said that the areas for which a county is mandated to publish in a newspaper include financial statements; budgets; bids, leases, and non-professional contractual services; local administration regulations; taxes; election ballots; delinquent property tax lists; invitations to bid on bonds; ordinances; audits; and notice of public hearings. While the means by which counties carry out their duties continue to evolve, statutes keep counties reliant on forms of communication that are not always timely for the people or the press. The explosion of social media options, including Facebook and Twitter accounts operated by newspapers, have changed the way information is released by not only the press, but also by elected officials, and has changed the way it is absorbed by the public.

Counties are not suggesting that they should turn solely to digital forms of public notice. A deeper look into the blending of both published and digital content would recognize current and future trends and practices of public information consumption, while maintaining good stewardship of tax dollars entrusted to county governments. During the last few legislative sessions, attempts have been made to do that blending. In 2014, SB 101, sponsored by Senator McDaniel, would have allowed for the option to post public notice content online instead of purchasing newspaper space. Senate Bill 101 would have required one ad detailing the subject matter, noting the website where the full document could be viewed, and listing a phone number of the local government for any questions. The website would have been maintained by the local government or a third party under contract to provide electronic notices. The ad on the website would have been available for a set amount of time, and the bill would have required proof of the posting.

KACo is ready to work with the stakeholders to continue to provide timely public notice in hopes of engaging its constituents at the local level.

Mr. Eric Kennedy, Director of Governmental Relations with the Kentucky School Boards Association (KSBA), said that the cost of publishing notices in the newspaper is a concern for KSBA because it represents school boards, which are elected to manage the affairs of the communities' schools. Among the most important duties of school board members is to properly, effectively, and transparently use the state funds appropriated by the General Assembly and to provide educational opportunities to children. To supplement state support, school boards also have tax levying authority to raise additional funding locally.

Since 2008, the split between local support and the SEEK formula has shifted significantly. While the SEEK has been largely protected from budget reductions, school costs have increased causing local school boards to increase local school taxes to generate the necessary funds. Pension costs will increase next year, and absent comprehensive tax reform that brings in additional revenues, KSBA understands that all government programs will be faced with budget cuts, possibly even SEEK.

The KSBA supports 2017 SB 118, a proposal which the KSBA hopes will pass the next session of the General Assembly. SB 118 would have codified what was the practice for over a decade through budget language, which was to allow the annual financial statement to be posted on the school district website in lieu of newspaper publication. A survey of school district expenses before and after the budget language was vetoed for last year, demonstrated that publishing the information in newspapers cost school districts statewide almost $600,000 more. In light of the "perfect storm" of financial stress districts are under, this money simply must be used in the classroom.

The KSBA is asking the legislature to help as school district leaders find every possible efficiency that can be used to free up every cent it can to provide educational services. KSBA has met with the Kentucky Press Association (KPA) to find ways to make the annual reports costs as low as possible. The KSBA is grateful for KPA's help and has sent KPA's suggestions to all school districts for the reports that will soon be appearing in the local newspapers.

At the same time, KSBA believes in taxpayer transparency over use of tax dollars. Many issues that are possibly of concern with internet notice only are not as much of an issue for schools. Every school district in the state has a website, which follows a standardized web address format and is subject to state and federal restrictions for accessibility. Many types of legal information are already required to be posted on the websites, and, in fact, the annual financial report is also posted online now along with monthly detailed financial information. The posting online is in addition to newspaper publication. If school districts are allowed to present information on the internet, it will allow for adequate and transparent public notice just as it did during the many years it was allowed through budget language.

Senate Bill 1, which passed unanimously during the 2017 session of the General Assembly, contained a similar provision that was codified into law for the school report card, which until that time was also to be published in the newspaper but was subject to the same budget provision allowing for internet posting. School districts were required to publish the report card in the newspaper for last year, but KSBA is grateful for SB 1's provision for the full report to be posted on the internet. Senate Bill 1 will allow school districts to save money to be used for the students in the classroom, and KSBA hopes a similar change will be made for annual financial reports and other notices.

Ms. Robin Kinney, Associate Commissioner of Finance and Operations with the Kentucky Department of Education, said that the flexibility for publishing annual school financial statements afforded in budget language was the right thing to do. It was efficient and satisfied the local constituents. The vetoed budget language required returning to the previous standard of newspaper publication.

Mr. Jody Maggard, Finance Officer for the Perry County School System, noted a sharp decline in unmined minerals tax revenue. The Kentucky Association of School Business Officers (KASBO) conducted a survey of the school districts to obtain the cost of publication of financial statements from 2015 to 2016. In 2015, school districts paid a total of $28,945.38 to advertise the school district's financial information which is an average of $174.37 per district. In 2016, school districts paid a total of $267,284.22, an average of $1,610.15 per district not including Jefferson County. Publishing the financial statements will cost Jefferson County school district in excess of $500,000 in 2017.

School districts are in no way advocating for a lack of transparency. Each school district has a website, uses social media, and has open board meetings, with availability for the public to speak on any matter that is of concern. The Program Review Committee's report found that 85 percent of Kentucky households have a computer.

Commissioner Sandra Dunahoo of the Department for Local Government (DLG), said that DLG provides guidance to local governments and special purpose government entities. DLG also serves as a conduit for federal monies to local governments and oversees the state implementation of those federal programs which involves advertising. Sometimes in order to meet federal and state requirements, two advertisements must be submitted. DLG is committed to accountability and transparency.

Mr. Neal Cornett, Executive Assistant to the Commissioner's Office of DLG, said that under the Office of State Grants, the Area Development Fund's and the Joint Funding Administration's advertising requirements are limited to purchases of goods and services under the Model Procurement Code (MPC). Coal and mineral severance expenditures are likewise governed by the MPC. The Local Government Economic Assistance Fund (LGEAF) requires a public hearing that must be advertised pursuant to KRS Chapter 424.

Regarding the Office of Federal Grants, the Community Development Block Grant (CDBG) Program guidelines require local governments to follow state and federal law on public advertisements. Public meetings for local governments applying for the Recreational Trails Program and the Land and Water Conservation Fund may be done online or in a local newspaper.

The Kentucky Infrastructure Authority's (KIA) State Revolving Funds (SRF) meets the Environmental Protection Agency's public awareness requirements by identifying approved projects on the website. SRF environmental reviews requiring public notice must comply with KRS Chapter 424. Public comment on environmental review are conducted on the Kentucky's Division of Water website. SRF borrowers are required to bid projects for no less than seven days and no more than 21 days in the local newspaper of largest circulation.

In response to a question from Representative Meredith, Mr. Cornett said DLG houses budgets and financial statements of local governments.

Regarding Special Purpose Government Entities (SPGEs), failure to submit information or submission of noncompliant information results in a published notice subject to KRS Chapter 424. Dissolution of an SPGE must be published subject to KRS Chapter 424. Commissioner Dunahoo added that there is public internet access to DLG's database.

Commissioner Terry Manuel of the Kentucky Department for Libraries and Archives (KDLA), said that KDLA does not publish the same types of notices as other entities but is interested in the issue from an archives and management perspective.

Mr. Jim Cundy, Branch Manager of KDLA's Archives and Records Management Division, said that new and various ways of distributing information have become legion with the advent of widespread computer networks. For example, newspapers are online, and social media sites such as Facebook have become standard communication tools. Young people are increasingly going online for news, while neighborhood and local agency websites provide avenues to reach the public quickly and, literally, where they live. Clearly, this presents local government agencies with opportunities to reach their constituents in a much more efficient and cost-effective manner than in the past.

However, this presents many issues from an archives and records management standpoint. First, public notices distributed via digital media and maintained in digital formats are public records. Public records, such as legal notices, are subject to archives and records management requirements as established in KRS 171.410-171.740. One of these requirements is that these materials have a records retention period that is approved the State Archives and Records Commission and applies to the information in the record, regardless of its format. Local agencies must be able to make records accessible for the entire life of the record in order to meet obligations such as documenting agency business, protecting the rights of citizens, and responding to open records requests.

A legal notice is a permanently valuable record because it provides proof that local agencies have complied with the terms of KRS Chapter 424. If records are disseminated via digital media, it is reasonable to assume that local agencies have created them digitally and will want to retain them in a digital format as well. In the case of legal notices published by local government agencies, this means preserving a digital record permanently. Changes in technology and the susceptibility of these records to be altered electronically present challenges to preserving them.

The Archives and Records Management Division care deeply about and take very seriously the proper management of local government records in a digital environment.

Mr. Mark Wilson with Top Shelf Lobby and representing The Gannett Company, said newspapers offer an active readership, and the public is more likely to see the advertisement in one rather than on a website as noted in LRC's study. Also noted in the study is that less than 1 percent of a local government's budget is spent on public notices. Gannett stands ready to look into solutions to provide transparency in a more cost efficient manner as it pertains to public notice advertising.

Mr. David Thompson, Executive Director of the Kentucky Press Association (KPA), said that discussing public notice advertising has been at the forefront of KPA's preparations every legislative session since 2005 when talk about moving notices to government websites started.

In September of 2005, KPA sat down with KLC, KACo and county commissioners and magistrates' representatives to see what could be changed in KRS Chapter 424. KPA, on its side, knew that concessions had to be made to reduce the costs to governments. Over two months, groups discussed particular segments of KRS Chapter 424 and worked on language that was agreeable to all. It was then presented to each respective board, got their support, and came in 2006 with a rewrite of the Public Notice Advertising Law. In the end, the concessions that KPA made resulted in about a 32 percent decrease to the costs to public agencies. During the 2006 session of the General Assembly, HB 171 passed, co-sponsored by Representatives Lee and Riggs.

Last year, KPA worked with the LRC's Program Review Committee staff on the previously mentioned study. The results of that study found that, generally, the expenses for public agencies to meet the requirements in KRS Chapter 424 and publish their notices in local newspapers amounted to about one percent of a public agency's budget.

The KPA talked with a representative of the KSBA and gave them suggestions about how school districts can decrease the cost of publishing their financial statements. In KRS 424.220, school districts are required to list only payments of $1,000 or more to vendors. Each vendor is listed but one time with the total amount paid to that vendor for the year. However, KPA discovered that many school districts did not limit the financial statement to $1,000 or more. Most listed all vendors and total payments. KPA told the KSBA to make sure its members do not list payments of less than $1,000 total to any vendor. In discussing that with KPA's Board of Directors, KPA has already approved its support to increase that minimum threshold to $5,000.

The KPA also suggested that KSBA have its school districts provide the statement in a text or word document format so that newspapers can easily take out any extraneous white space and also reduce the point size. Unfortunately, several school districts last year provided portable document format (PDF) files of their financial statements and it was impossible for newspapers to make the necessary adjustments.

There have been attempts in other states to move notices to the web. One state—either Wyoming or Utah—is the only state to pass it legislatively but that was reversed soon after when it became obvious it was not workable.

Open government or transparency is a three-legged stool. One leg is open meetings, one is open records, and one is public notices. Without all three, there is no balance for government transparency.

Representative Meredith commented that the committee understands that there needs to be uniformity and balance between government transparency and cost.

In response to a question from Senator McDaniel, Mr. Kennedy said that in the Jefferson County Public School's case, the veto of the budget provision took everyone by surprise, and that a PDF formatted notice was used. The cost for the school had they advertised fully would have been $360,000.

In response to a question from Senator McDaniel, Mr. Thompson said that the qualification of a newspaper is keyed on where the newspaper's main office is located. The type of mailing permit and paid circulation play a role, too.

Representative Miller commented that local publication requirements constitute an unfunded mandate and need to be modernized.

In response to a question from Senator Bowen, Mr. Thompson stated that it could be five years at the earliest estimate to ten to 15 years before everything is done only online. Some local newspapers will never be only online. Newspaper online subscriptions are not that expensive so they are not making money. Notices are already aggregated and placed online by the Kentucky Press Association.

In response to a question from Representative Scott, Ms. Upton said examples of social media for publication include websites, Facebook, Twitter, Instagram, and Snap Chat.

Representative Linder commented that he was going to talk to his constituents in his district to see what they prefer in regard to internet publication options. It should be left up to the taxpayers.

In response to a question from Representative King, Mr. Thompson said publishing is not just printing but putting the newspaper together for distribution.

In response to a question from Representative King, Mr. Kennedy said that he envisioned active notifications in the near future for the receipt of public notices, such as "push" notifications to alert subscribers of certain media of the existence of notices online.

Senator Schroder encouraged members to review the list of school districts and their publishing costs. He said he would be filing SB 118 again for the 2018 session. The taxpayers are subsidizing newspapers. School money is being used for notifications, too.

Consideration of Referred Kentucky Administrative Regulation

The committee considered referred Administrative Regulation 815 KAR 7:120, promulgated by the Department of Housing, Buildings and Construction (HBC), which established the uniform Kentucky Building Code. Commissioner Steve Milby, Mr. David Startsman, General Counsel, and Mr. Duane Curry, Director of Building Code Enforcement represented the Department and discussed the changes relative to greenhouse structures and plans review fees therefrom.

In response to a question from Representative Riggs, Mr. Curry responded that HBC was working with Senator West during the session on the subject encompassed in the regulation.

Representative Meredith stated that a written report of the review would be submitted to the LRC.

Representative Meredith announced that the next meeting will be August 23rd at the Department of Criminal Justice Training in Richmond.

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

Minutes of the 1st Meeting of the 2017 Interim

July 27, 2017

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 27, 2017, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Jill York, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Jill York, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Alice Forgy Kerr, and Max Wise; Representatives Toby Herald, Steve Riggs, Diane St. Onge, and Tommy Turner.

Guests: David A. Dickerson, Secretary, Public Protection Cabinet (PPC); Gail Russell, Deputy Secretary, PPC; Elizabeth Kuhn, Communications Director, PPC; Donnie Holland, Commissioner, Department of Parks, Tourism, Arts, and Heritage Cabinet (TAHC); Rob Richards, Deputy Commissioner, Department of Parks, TAHC; William H. Novak, Director, Facilities Management, Department of Parks, TAHC; and Representative Dan Johnson.

LRC Staff: Seth Dawson, Greg Troutman, and Benjamin Thompson.

Overview of the Public Protection Cabinet

Secretary Dickerson provided a brief update on the budget of the Public Protection Cabinet (PPC).

In response to questions from Representative Johnson, Secretary Dickerson stated that PPC currently provides training for charitable gaming licenses on Facebook live. Secretary Dickerson noted that charitable gaming ventures raise several hundred million dollars for the state.

Overview of the Department of Parks and update on "Refreshing the Finest"

Commissioner Holland provided a brief update on the budget of the Department of Parks as well as an update on the status of the Department's "Refreshing the Finest" program.

In response to questions from Chair York, Commissioner Holland noted that there are now twelve state resort parks and two golf courses that allow alcohol sales. Alcohol sales in state parks have generated $539,000 in profit for the state in the last year. Commissioner Holland confirmed that the Department of Parks had to update equipment prior to allowing online bookings for rooms and campsites.

In response to a question from Senator Wise, Commissioner Holland said that no state parks have Kentucky craft beer on tap.

There being no further business before the subcommittee, the meeting was adjourned at 11:37 AM.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 3rd Meeting of the 2017 Interim

August 3, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, August 3, 2017, at 1:00 PM, at the UK Center for Applied Energy Research (CAER). Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr. and Brandon Smith, Representatives Larry Brown, McKenzie Cantrell, Matt Castlen, Jeffery Donohue, Jim DuPlessis, Daniel Elliott, Chris Fugate, Dennis Keene, Reginald Meeks, Suzanne Miles, and Jill York.

Guests: Rodney Andrews, CAER, Director; Michael Portwood, Minova, President; Bob Jewell, CAER, Research Program Manager; Matt Weisenberger, CAER, Associate Director; and Jack Groppo, CAER, Principal Research Engineer, UK Mining Engineering Faculty.

LRC Staff: Stefan Kasacavage and Janine Coy-Geeslin, and Susan Spoonamore and Rachel Hartley, Committee Assistants.

Overview and Introductions

Rodney Andrews provided a brief overview of the research focuses of CAER, which included environmental protection, utilization of coal and ash waste, expanding the use of renewable energy, energy reliability, efficiency gains in electric generation, energy security, and economic and workforce development.

The CAER Power Generation Group's mission is to develop technologies for continuous use of fossil resources with a primary focus on removing carbon dioxide from coal production. The Carbon Management Research Group is a consortium of utilities and the Electric Power Research Institute that supports this work at CAER. Kentucky has invested $8 million in CAER for an overall economic impact of $78 million. A $4 million investment was just received from the Department of Energy, and two funding opportunities in carbon management are expected in the near future.

The Biofuels and Environmental Catalysis Group is developing renewable fuel sources to reduce the environmental impact of energy production. One of the projects focuses on using microalgae to reduce carbon dioxide emissions. There is a pilot facility at East Bend Power Station to research how to use microalgae to capture carbon dioxide and use solar energy to convert it to other products. China is utilizing this licensed technology for the production of food using algae as a food additive. Algae are very high in protein and carbohydrates.

The Clean Fuels and Chemicals Group is an internationally recognized open access testing facility for gas to liquid catalysis. Petroleum companies use this site for their testing.

The Organic (carbon-based) Electronics Group is researching low-cost solutions for energy harvesting. One project focuses on utilizing organic solar cells, which are similar to paint materials. This can be used to retrofit buildings for solar energy production.

In response to Senator Smith, Mr. Andrews stated that scenedesmus is the type of algae being used for testing since it is fluid and floats. They are using naturally-occurring algae rather than introducing a new organism.

In response to Representative DuPlessis, Mr. Andrews stated that their focus is on collaboration with industry, since about one-third of their funding comes from industrial sources, and they work with industry to leverage federal funding for projects.

High Value Cementitious Materials from Coal Ash

Bob Jewell stated that the task of the Cementitious Materials Group is to find ways to use coal combustion byproducts for beneficial utilization. Their primary push is for low-energy, low-carbon dioxide cement and concrete. This cement can be used for ultra-high performance fiber-reinforced concrete. This sprayable concrete can be used for critical infrastructure repair and military purposes.

Kentucky consumed approximately 34 million tons of coal for electric power in 2015, which produced 7.7 million tons of coal ash. Coal ash is utilized at a rate of 21 percent, with the remaining deposited into landfills or ponds. The national rate of utilization of coal ash is 52 percent. There is growing demand for coal ash, and Kentucky is well-positioned to help meet this demand because of its many coal ash ponds that contain reclaimable coal ash material.

The largest volume of concrete is used in the transportation construction market. One-fourth of the interstate highway system is paved in concrete. Fly ash in concrete increased from 13.1 million tons in 2014 to 15.7 million tons in 2015. Kentucky consumes approximately 1.1 million tons of Portland cement annually, which equates to approximately 418,000 tons of fly ash.

Fly ash concrete (FAC) increases durability and decreases expense, since roads constructed with it need to be repaired less often. The life span for concrete with fly ash is 30 to 60 years, as opposed to concrete without fly ash, which lasts only 20 to 25 years. The estimated savings are $25 billion over 20 years if all concrete roadways were designed with FAC to last 35 years, and savings could amount to $33.5 billion over 20 years with a 40-year life span.

In response to Representative DuPlessis, Mr. Jewell stated fly ash is an amorphous material that is primarily silica. They are using dry scrubbers instead of wet scrubbers, so they do not have to manage a waste water component.

In response to Representative Gooch, Mr. Jewell stated that ultra-high-performance materials are highly-engineered materials, and they are used for specialty applications. If the performance is high, then there is no reason to limit the amount of coal ash in concrete. Instead, performance standards should be set, and any concrete meeting those standards should be permitted, regardless of its coal ash composition.

In response to Representative Brown, Mr. Jewell stated roads made with coal ash are chemically more resistant, particularly on bridge decks.

Minova

Michael Portwood stated Minova is a subsidiary of Orica Mining Services which is one of the largest manufacturers of explosives products. It is a 135 year old company that supports the mining industry. Collaboration between universities and the private sector to create a commercial product is critical to its success.

The Department of Homeland Security reached out to the University of Kentucky to create a rapid-hardening cement that is a spray application. If a terrorist attack occurred, the spray can be applied on any surface to create a structure that acts like a steel beam, which would allow first responders to enter the building within fifteen minutes. The product has been commercialized as TekCrete Fast, and the patent was granted in March 2016. The product will expand into more markets including bridge and dam repair, as well as underground mining.

TekCrete Fast has multiple product families including TekCrete Armor. This is an application that the Department of Defense can utilize. If a runway is bombed it can be repaired in twenty minutes using the concrete spray. A helicopter pad can be created in twenty minutes by spraying concrete on any surface, including grass. The product acts more like a steel than a cement.

In response to Representative Miles, Mr. Portwood stated shotcrete is currently being used in the mines and creates a six-inch thickness opposed to TekCrete that creates a two-inch thickness. TekCrete is a cheaper and stronger material.

In response to Representative Castlen, Mr. Portwood stated the concrete spray shrinks more than it expands.

In response to Representative York, Mr. Portwood stated that concrete structures can be created for military use and refugee camps. The structures are created quickly in the event of a catastrophic disaster.

In response to Representative Miles, Mr. Portwood stated the material is not easily destroyed. It is similar to concrete in the way it would need to be removed.

Coal to Carbon Fiber

Matt Weisenberger stated that the method he is researching to create carbon fiber involves removing the hydrocarbon from coal. The idea is to create a highly versatile product from coal. Carbon fiber material is very lightweight. It is used in the automotive industry to design cars with higher fuel efficiency. Other applications of the product include aerospace and outer space design to create lightweight planes and satellites.

There is significate value to transforming coal into fiber. Coal (for coke) is valued at $100/ton and fiber is valued at $2 million/ton. Mitsubishi in Japan is currently using this technology.

The project is a collaboration between the CAER and the University of Utah with funding from the Department of Commerce Economic Development Authority. Total funding for the project is $1.58 million over three years.

In response to Representative Gooch, Mr. Weisenberger stated there are only three machines in the world that make the fiber, and that one is at CAER.

Rare Earth Elements from Domestic Coal and Coal Byproducts

Jack Groppo stated that rare earth elements (REE) are actually very common; however, they are rarely found in high concentrations. REE are utilized in magnetics, phosphors, metal alloys, catalysts, ceramics, glass, and defense.

China has a worldwide monopoly on REE that gives them the opportunity to dictate the price. The United States had minor production a couple of years ago while production in Australia is increasing. Since China controls the supply, the United States is turning to coal where REE can form to hopefully increase domestic production. The Department of Energy (DOE) considers neodymium, europium, terbium, dysprosium, and yttrium to be critical elements to renewable energy development.

The Fire Clay Seem in eastern Kentucky has been mined for the last 40 years. A volcanic eruption in the Yucatan deposited a tonstein layer that is rich in REE phosphate minerals. REE are more concentrated in rock layers, while heavier rare earth elements are more prevalent in coal layers.

The DOE-solicited projects for processing fly ash and enriching coal ash are currently under review for Phase 2 funding with $6 million over 48 months.

In response to Representative DuPlessis, Mr. Groppo stated there are bins at local hardware stores to deposit used batteries and the recycling rate is very high. There needs to be more public awareness on how to recycle electronic waste. In 2008 China decided to no longer export raw materials, but will export the products.

In response to Representative Donohue, Mr. Groppo stated he recycles plastic. In Jessamine County it is separated from other materials, which makes it easy to recycle. The problem is when the public is too cheap to pay for recycling pick-up, they will use the community recycle bins. The solution is public education and awareness, not a mandate.

The next meeting of the Interim Joint Committee on Natural Resources and Energy will be at Kentucky American Water in Lexington, Kentucky on September 7, 2017. Documents distributed during the meeting are available in the LRC Library.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON TOURISM, SMALL BUSINESS, AND INFORMATION TECHNOLOGY

Minutes of the 2nd Meeting of the 2017 Interim

July 5, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Wednesday, July 5, 2017, at 10:30 AM, in Room 131 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representatives Diane St. Onge, Co-Chair, and Tommy Turner, Co-Chair; Senators Perry Clark, Rick Girdler, Ernie Harris, Stephen Meredith, Wil Schroder, Reginald Thomas, and Max Wise; Representatives John Blanton, Matt Castlen, Jeffery Donohue, Chris Fugate, David Hale, Chris Harris, Angie Hatton, Toby Herald, Dan Johnson, Kim King, Michael Meredith, Russ Meyer, Robby Mills, Rick Nelson, Sannie Overly, John Sims Jr., and Jill York.

Guests: Don Parkinson, Secretary of Ky. Tourism, Arts, and Heritage Cabinet; Regina Stivers, Deputy Secretary of Ky. Tourism, Arts, and Heritage Cabinet; Donnie Holland, Commissioner, Ky. Department of Parks.

LRC Staff: John Buckner, Chip Smith, and Emma Mills.

Tourism, Arts and Heritage Cabinet FY 2016-17 Performance Highlights

Don Parkinson, Secretary of the Kentucky Tourism, Arts and Heritage Cabinet spoke about the cabinet, its agencies, and the challenges of the cabinet. In overview, he thinks last year was a good year. All of the state funded agencies within the cabinet did better than budgeted and will give back $3.5 million to the state general fund primarily due to improvement in parks. The cabinet met the goal of a 9 percent overhead cut and has improved customer satisfaction scores. He introduced members of his staff and highlighted the accomplishments and hard work of the employees of the cabinet's various agencies.

Secretary Parkinson discussed the private/public partnerships (P-3), which enable the state and cities to secure capital to get projects completed. Kentucky was the last state in the region to have P-3 legislation. There are 11 active projects, including two private RFPs (Request for Proposal) which would enable private partners use and maintain state property, generating income for the state.

In regards to development in Jefferson County, the secretary mentioned the approved name change of the *Kentucky State Fair Board* to ***Kentucky Venues*** to help solicit new business from around the country and updated on the Louisville International Convention Center's $207 million renovation and expansion, which will re-open in July of 2018. This has spurred the development of many hotels in the Jefferson County. Secretary Parkinson also mentioned the Kentucky Exposition Center and highlighted some of the events that took place there this past year.

The secretary went on to discuss the Kentucky Horse Park. Revenue is up 5.6 percent at the park and $450,000 ahead of budget. In the future, the park is looking to own events in addition to renting out to outside events such as the Rolex event. The United States Equestrian Federation signed a 40-year ground lease on three acres of land. The lease allows the Federation to construct a two-story, approximately 35,000 square-foot office building; construction will begin in late 2017.

The secretary spoke about the Kentucky Department of Fish and Wildlife. The emphasis of the department is not only hunting and fishing but also conservation. An example of the conservation work done by the department is the elk herd expansion in eastern Kentucky. The department began with a small herd 20 years ago which is up to 10,000 elk now, which will be a big draw to Eastern Kentucky. Besides elk, the Kentucky Department of Fish and Wildlife stocks six million fish per year in ponds, rivers and lakes around the state. The department is also entirely self-funded through fishing and hunting licenses. Among the challenges facing the Department of Fish and Wildlife is dealing with Asian Carp, an invasive species of fish increasingly found in Kentucky waterways.

Regina Stivers, Deputy Secretary of Ky. Tourism, Arts, and Heritage Cabinet discussed the Kentucky Travel and Tourism Agency, the marketing arm of the state. Tourism is the 3rd largest revenue producing industry in Kentucky with $14.5 billion in economic impact in 2016. Tourism provides 193,000 jobs, generates $3.1 billion in wages and supplies $1.4 billion in tax revenue. Deputy Secretary Stivers discussed about Kentucky diverse tourism options, from outdoor recreation to horses to faith based tourism destinations such as The Ark. The fastest growing segment of tourism is international tourism to Kentucky, which the cabinet has aggressively sought.

The deputy secretary reviewed the Heritage Council, emphasizing the impact of the Historic Preservation Tax Credit. Since instituting the tax credit ten years ago, Kentucky has seen $900 million in private investment in historic properties around the state. She pointed out that 2015 saw $300 million in investments due to the Enhanced Tax Credit that applied to Jefferson and Fayette counties only. The Heritage Council recently moved to the Barstow House, adjacent to the Thomas Clarke history center. The move provides income for the Historical Society and better access to preservation and security of historic documents from across the state. In addition, the cabinet will be looking for future funding to digitize documents that the Heritage Council oversees.

The Historical Society has seen a 28 percent increase in revenue, mostly due to facility rentals, proactive marketing, the Local History Trust Fund and revenue from historical markers. Currently the Historical Society has a new exhibit called "The People of Kentucky" to celebrate Kentucky's 225th anniversary. The Society, amongst other projects, is embarking on a state-wide listening tour to listen to stories about what residents think about Kentucky; the tour will also visit Governor's scholars at Murray state, Northern Kentucky University and Morehead to speak with students in the program.

Deputy Secretary Stivers discussed updates to the Kentucky Artisan's Center in Berea. New management under Todd Finley, who is helping to provide income to over 700 small businesses in the region. The center has 60 annual demonstrations and events throughout the year, has seen a 38 percent increase in group tours, and provides $1.57 million in revenue.

Continuing with the presentation, Secretary Parkinson discussed the Kentucky Tourism Development Finance Authority, which focuses on economic development. In the last year the Authority has worked on 10 projects, $157 million invested with a $900 million economic impact to the state. The Authority has helped with financing of visitor centers at breweries and distilleries around the state, the Ark Encounter facility and is active in developing the film industry in Kentucky.

Some of the most substantial improvements this year in the state has been to the park system. Secretary Parkinson reviewed the results of an $18 million state investment to the park system. For FY17, the state sold 9,000+ more hotel rooms than in 2016 and increased revenue by $2.1 million over 2016 with a total economic impact of $889 million despite having two of the largest lodges closed for renovations.

Kentucky State Parks $18 Million "Refreshing the Finest" Update

Donnie Holland, Commissioner of Kentucky Department of Parks, continued the presentation with an overview of state parks. In review, there are 49 state parks, 17 resort parks, 14 golf courses, 785 full-time staff with a $93.1 million generated in tax revenue. Commissioner Holland discussed the $240 million in deferred maintenance costs over the years. The state granted the park system $18 million to help with safety and aesthetic upgrades of which 69 percent has been used. Examples are upgrades to Barren River (electrical repairs, lodge upgrades, pool upgrades), Blue Licks Battlefield (pool upgrades, new museum roof), and Buckhorn Lake (upgrade to Convention Center interior, support beams and roof work, cottage repairs) amongst other various upgrades. Jenny Wiley State Park and Greenbo Lake State Park were shut down to upgrade facilities.

The Department of Parks is trying to invigorate foundations or friends investments groups. In the last year and a half, friends' groups have raised and invested $1.4 million for park and marina upgrades. For example, Lake Malone's marina needed to be condemned due to lack of state funding to be able to maintain the marina. A local group raised enough money to build a new marina without needing to use state funding.

With regards to Return on Investments, Commissioner Holland pointed to 9,000+ more rooms sold in fiscal year 2017 over 2016, and customer satisfaction scores have increased 90 percent in the same time period with $50 million in revenue for the state. Commissioner Holland feels that none of these improvements could have been done without the $18 million investment by the state.

The department also partnered with the internet site Expedia.com to improve lodge room sales this year. Room sales improved roughly 8 percent almost immediately with this partnership. Commissioner Holland indicated plans to expand the department's presence on the internet in the near future. Along with an expansion on the internet, Holland pointed to the hiring of hotel management professionals who brought in up-to-date management ideas and practices as an additional reason for the uptick in room sales across the state.

Commissioner Holland points out that though there have been a number of much needed repairs made to park structures, there are still problems that need to be addressed. The cost of deferred maintenance for state parks now sits at $234 million. For example, Fort Harrod conference center has been shut down due to rotted wood, mold and leaks, and the My Old Kentucky Home amphitheater is in bad shape as well. Currently, the state holds $391 million in insured assets in the park system. Holland recommends that an annual rate of 2.20 percent be put aside for annual maintenance costs in the future.

Looking ahead to FY2017, Commissioner Holland is upbeat about trends and events affecting the state park system. In August 2017, thousands of tourists are expected in western Kentucky to experience the full solar eclipse. The parks expect strong bookings and occupancy rates at lodges around the state. Along with the expansion of sponsorships/naming rights as well as the expansion of using online booking options. Commissioner Holland also pointed out how impressed he has been with the employees of the park system since starting with the park system last year.

Responding to a question from Representative Donahue regarding golf courses around the state, their self-sufficiency or continued economic viability, Commissioner Holland acknowledged the state loses about $3 million a year on the state's 14 golf operations. Two golf courses have been closed in the last year due to low utilization (2 percent utilization); a third will be closed due to 7 percent utilization as well. Given the national downward trend of interest in golf as a sport, the park system is closely evaluating each individual remaining golf course. The Department of Parks is putting more resources into golfing, including a Director of Golf to attempt to revitalize interest in the state's golf courses.

Representative Donahue mentioned newspaper articles regarding cancelled conventions with the Louisville International Convention Center due to passage of SB17 and queried the panel about the cabinet's plans to address possible loss of tourism and conventions. In response, Secretary Parkinson confirmed two cancelled conventions due to SB17 but didn't know what the long term effects to the state's tourism would be, but acknowledged that if the trend continued it could be a problem for state tourism since the industry is so reliant on the convention center in Louisville.

In response to a question from Senator Schroder about transient room tax and Airbnb and who enforces collection, Secretary Parkinson said the Department of Revenue would enforce those laws.

Responding to a follow-up question about the cancelled conventions asked by Senator Schroder asked, Secretary Parkinson confirmed the two conventions were cancelled specifically because of SB17.

In response to a question from Senator Thomas, Secretary Parkinson discussed the naming rights regulations that had just taken effect June 30th, 2017. He said there have been no discussions about individual naming rights for buildings, but the cabinet is not in the business of renaming parks, rivers, or roads. He emphasized it was more about renaming lodges or events but will expect to see progress on this in the next three months.

Commissioner Holland, responding to a question from Representative Hale, confirmed there were 9,000+ additional room sales for FY2017 over FY2016 at state run lodges. The average rate for a room went up $5.00 to an average daily rate of $99.00 around the state (rates vary by season).

Representative Hale followed up with a question regarding the usage of golf courses around the state. Commissioner Holland explained that capacity at a golf course would be 40,000 rounds per year; My Old Kentucky Home course averages 21,000 rounds per year, the most in the state.

In response to a question from Representative King about the demographics of park visitors, Kristin Branscomb, Commissioner of Tourism, indicated that the cabinet's target demographic is women, ages 25-54, household income of $75,000+. Women in this group tend to make the traveling plans for families. Additional visitor profiles are available from the commissioner upon request.

In response to a question regarding The Ark Encounter from Representative Blanton, Secretary Parkinson felt the park is exceeding the expectations of the owners, though he did not have any numbers available. Commissioner Branscomb noted that Grant County (location of the park) had 128 percent increase in economic impact from the first six months of the park's opening.

Responding to a questions from Representative Meredith, Commissioner Holland says that the third golf course in the state slated to close is the Kincaid Lake State Park course and the locations of the stand-alone courses in the state are Mineral Mound, Yatesville Lake, Grayson Lake, Lincoln Homestead, and My Old Kentucky Home.

In a response to Representative Meredith's query about the status of federal assets that had been passed to Fish & Wildlife in Western Kentucky, Commissioner Greg Johnson with Kentucky Fish & Wildlife updated the committee on the plans for these decommissioned dams in question. Green River dam number 6 has been removed and is undergoing a feasibility study.

Announcements

Per Co-Chair Turner, the next meeting of the Interim Joint Committee on Tourism, Small Business and Information Technology will be August 18th, 2017 at 1:00 p.m. at the Knott County Sportsplex, pending approval.

Adjournment

There being no further business, the meeting was adjourned at 11:59 a.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 2nd Meeting of the 2017 Interim

July 27, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 27, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Morgan McGarvey, Dennis Parrett, Wil Schroder, Brandon Smith, Robin L. Webb, and Max Wise; Representatives Rocky Adkins, Regina Bunch, Myron Dossett, Ken Fleming, Jeff Greer, David Hale, Brian Linder, Donna Mayfield, Suzanne Miles, Jason Nemes, Ruth Ann Palumbo, Phillip Pratt, Jody Richards, Sal Santoro, Arnold Simpson, James Tipton, Ken Upchurch, Jim Wayne, Russell Webber, Susan Westrom, and Jill York.

Guests: Secretary Vickie Yates Brown Glisson, Cabinet for Health and Family Services; Jamie Ennis Bloyd, President, Kentucky Pediatric Cancer Research Trust Fund; Katie Anne Doggett Lester, Mother of Bennett Lester; Dr. Lars Wagner, M.D., Chief, University of Kentucky Hematology/Oncology; Dr. Ashok Raj, M.D., Interim Chief, Division of Hematology/Oncology and Bone Marrow Transplant, University of Louisville School of Medicine and Norton Children's Cancer Institute; John E. Chilton, State Budget Director; Janice Tomes, Deputy State Budget Director; Kevin Cardwell, Deputy State Budget Director; Greg Harkenrider, Deputy Executive Director, Governor's Office of Economic Analysis.

LRC Staff: Jennifer Hays, Cynthia Brown, Amit Shanker, Hannah Walker, Charlotte Quarles, and Jennifer Beeler.

Approval of the Minutes

Representative Rudy made a motion, seconded by Senator Alvarado, to approve the minutes of the November 21, 2016 and June 7, 2017 meetings. The motion carried by voice vote.

Pediatric Cancer Research Trust Fund

Secretary Glisson gave brief remarks regarding the Pediatric Cancer Research Trust fund as an active board member of the Pediatric Cancer Trust Fund Board. She explained that the board had held four quarterly meetings in the past year, elected officers, hosted a Pediatric Cancer awareness event, and developed regulations to establish a competitive grant program.

Katie Anne Lester, mother of Bennett Lester, who died of a pediatric brain tumor, shared her story and described the critical importance of pediatric cancer research. Without pediatric cancer research, doctors will not have adequate knowledge of the many forms and differences of pediatric cancer as compared to cancers in adults.

Dr. Ashok Raj explained that childhood cancer is the leading cause of death due to disease in the United States. On average, 2,275 children per year die due to some form of childhood cancer. There are several forms of childhood cancer, but in Kentucky brain cancer is the leading form of cancer diagnosed.

There has been extraordinary progress in survival rates for childhood cancer. In the 1960s, a child three to five years of age diagnosed with leukemia had no chance of survival. In 2016, the survival rate of leukemia is approximately 90 percent.

The goal in precision cancer medicine is to improve cure rates and decrease toxicities by identifying the specific genes, proteins, and pathways responsible for malignant transformations or progression of individual cancers, utilizing therapies to target these features that distinguish cancer cells from normal cells, and reducing the number of side effects that a child could develop due to the types of cancer treatments.

Dr. Raj hopes to build a strong and innovative pediatric hematology/oncology/stem cell transplant and cellular therapy program through compassion and teamwork, and with the help of emerging technologies.

The plan to reach that goal is to enhance clinical excellence in pediatric hematology/oncology/stem cell transplant therapy for children, expand participation in new clinical trials and bring in innovative cellular therapies, establish a cutting-edge cellular therapy laboratory to support clinical mission, and embrace emerging technologies to develop novel cellular therapies for tomorrow.

Dr. Lars Wagner explained that in Kentucky brain tumors are the leading cause of childhood cancer death. Even patients who are successfully treated are at high risk for chronic life-affecting complications, such as academic, physical, and psychosocial limitations. Astrocytomas are the most common type of pediatric brain tumor. There has been an increase in Appalachia, where the incidence of astrocytoma is greater than in the rest of the state.

There has been some investigation as to why there is an increased rate of pediatric astrocytomas. The research has found that spatiotemporal assessment has identified a zone of 40 contiguous counties in which the incidence of pediatric brain tumors is far higher than what would be expected by chance. This will be investigated further by looking within individual counties for higher concentrations of tumors, and looking at more specific subtypes of pediatric brain tumors. This work is ongoing with the University of Kentucky in conjunction with the Kentucky Cancer Registry.

Due to changes in chromosomes and genes that affect the development of tumors, it is logical to look at the genetic makeup of tumors that are occurring more frequently than expected. Identification of new mutations within tumors, or finding a higher rate of known mutations than expected, could provide important cues as to why children in Appalachian Kentucky are more likely to develop these tumors.

To better understand the higher incidence of brain tumors occurring in certain parts of Kentucky, Dr. Wagner has been performing molecular testing on previously stored tumor samples from pediatric brain tumor patients treated throughout the state. There is a hypothesis that this information will provide important clues about why an increased number of Kentucky children are afflicted with this disease. This information will also further the understanding of the genetic causes of pediatric brain tumors, which are now the leading cause of death from childhood cancer.

In response to a question from Senator Wise, Dr. Wagner explained that screening for pediatric cancer has been very difficult and there are few identifiable causes of cancer at this time. Some patients who have underlying genetic syndromes, such as Down syndrome, have a higher incidence of leukemia. Unfortunately, for the majority of patients there are no clear triggers as to the development of childhood cancer, which makes screening a challenge.

Fiscal Year 2016-2017 Close Out

John Chilton, State Budget Director; Janice Tomes, Deputy State Budget Director; Kevin Cardwell, Deputy State Budget Director; and Greg Harkenrider, Deputy Executive Director for Economic Analysis, reviewed the budget and revenues for Fiscal Year 2016-2017 and the financial outlook for Fiscal Year 2017-2018.

Director Chilton said that actual general fund receipts for FY 17 were less than the official estimate by 1.3 percent, with a revenue shortfall of $138,526,126. The shortfall in receipts was driven primarily by the corporate income tax and sales tax. These taxes provide the most elastic sources of revenue.

Mr. Harkenrider reported that many of the remaining general fund revenue sources fell during the year. The underproducing areas included individual income, coal severance, and cigarette taxes.

The overall General Fund revenue growth rate for FY 17, compared to the prior year, was 1.3 percent. Even with that overall growth, the General Fund revenue sources, other than individual income, LLET and sales taxes, fell a collective $62.6 million.

Sales tax growth in FY 17 was 0.7 percent following a 6 percent growth in FY 16 and a 4.4 percent growth in FY 15. Kentucky's top two revenue sources, sales tax and individual income tax, generate 75 percent of the General Fund revenues. Those two taxes underperformed relative to the last two fiscal years. Individual income tax revenue contributed $111.8 million of the total $138.9 million in nominal General Fund growth. The sales tax contributed $22.5 million of the total $138.9 million in General Fund growth.

Director Chilton explained the FY 17 General Fund revenue shortfall totaled $138.5 million. There were some expenditures that were greater than appropriated at a total of $13.7 million, which created a General Fund budget shortfall of $152.2 million. Adjustments to various accounts were made to cover the shortfall amount and balance the budget.

Director Chilton stated that the beginning balance of the Budget Reserve Trust Fund was $235.8 million, after paying FY 17 NGEs of $85.3 million the ending balance to carryover to FY 18 totaling $150.5 million.

Janice Tomes discussed how in FY 17 the Department of Corrections budget makes up approximately 50 percent of the total NGEs. In FY 17, $42.8 million was spent due to more inmates, higher medical and staffing costs, and local correctional design fees.

Director Chilton discussed tobacco fund revenues for FY 17, which the budgeted amount totaled $87 million and including the current year appropriation and additional receipts the FY 17 total revenue was $93,415,538. The budget bill sets forth how the additional receipts will be allocated, with 50 percent to the agricultural development fund, 36 percent to early childhood, and 14 percent to the healthcare improvement fund.

Mr. Harkenrider testified on FY 17 road fund revenues, which had a surplus of $51.1 million, or 3.5 percent above the revised estimate. The road fund actually increased over the projected estimate of $1,456,900,000 and totaled $1,508,003,421.

Mr. Harkenrider stated that the motor vehicle usage tax receipts were up in FY 17, with revenues totaling $499.8 million. Motor fuels tax came in slightly higher than the estimate at $760 million, and motor vehicle license revenues decreased with actual revenues at $111.9 million.

Kevin Cardwell explained that the road fund had a surplus of $51.1 million, which statutorily is required to be deposited into the state highway construction account.

Director Chilton discussed the outlook for FY 18. The consensus forecasting group in December called for growth of 2.4 percent, but due to receipts not meeting the revenue estimates in FY 17 growth needed to hit the FY 18 estimate, rises to 3.8 percent.

Director Chilton explained that the Kentucky Permanent Pension Fund had 50 percent of FY 16 surplus amount totaling $26.4 million and FY 18 transfer from Public Health Insurance Trust fund totaling $125 million. The funds on the expenditure side are budgeted to be no more than $3 million and to date $1 million has been spent.

With no further business before the committee, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 3rd Meeting of the 2017 Interim

August 3, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Transportation was held on Thursday, August 3, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes from the July 6, 2017 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Marie Rader, Co-Chair; Senators Paul Hornback, Albert Robinson, Brandon Smith, and Johnny Ray Turner; Representatives Lynn Bechler, Tim Couch, Ken Fleming, Chris Fugate, Al Gentry, Chris Harris, Toby Herald, Dennis Horlander, Kenny Imes, Donna Mayfield, Suzanne Miles, Steve Riggs, Sal Santoro, John Sims Jr, Jim Stewart III, and Scott Wells.

Guests: Dr. Noelle Hunter, Executive Director for the Office of Highway Safety (KOHS), Kentucky Transportation Cabinet (KYTC), Michael Schwendau, Assistant Director, Office of Highway Safety, KYTC, and Erin Eggan, Communications Grants Administrator, Office of Highway Safety, KYTC; Jim Howell, Vice President of Marketing and Sales for LifeSaver App, Kevin Corman, Jessamine County Sheriff, President, Kentucky Sheriffs Association, Robin Brewer, Executive Director for the Office of Budget and Fiscal Management, Kentucky Transportation Cabinet.

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

Operations of KYTC's Office of Highway Safety

Dr. Noelle Hunter, Executive Director, Office of Highway Safety, KYTC, Michael Schwendau, Assistant Director, Office of Highway Safety, KYTC, and Erin Eggen, Communications Grants Administrator, Office of Highway Safety, KYTC discussed the operations of KYTC's Office of Highway Safety. Dr. Hunter stated the mission of KOHS is to reduce Kentucky's highway crashes, serious injuries, and fatalities through a data driven outcomes based approach in which they seek to drive down traffic safety problems, through innovative program delivery, high visibility law enforcement, traffic safety marketing, and robust incident management initiatives. Together, there are several divisions within the KOHS that provide safety education, enforcement, incident management and response in relation to Kentucky's highways. An organizational chart was provided to illustrate where each division falls within the Department of Highways, and more specifically, the Kentucky Office of Highway Safety. The Division of Incident Management includes the 24/7 Transportation Operations Center and the Roadway Assistance Branch. The Division of Highway Safety Programs includes the Safety Education Branch as well as the Grants Management Branch. Dr. Hunter stated KOHS runs on strong partnerships with over a dozen law enforcement and safety agencies and organizations. She stated the cabinet is guided by the strategic highway safety plan, a consensus driven sustainable plan which outlines measurable strategic opportunities to reduce traffic fatalities and serious injuries. The most recent federal highway funding bill (the FAST Act) requires states aligned core safety measures in the highway safety improvement plan and the highway safety plan in cooperation with metropolitan planning organizations.

Dr. Hunter stated the KOHS budget consists of the Education and Grants Funding division funded with $5,561,000 from the National Highway Traffic and Safety Administration (NHTSA), $1,470,450 from the Federal Highway Administration (FHWA), and $492,000 from the state. The Division of Incident Management, which includes incident management and SAFE patrol, is fully funded by the state at $4,305,000. Within the Division of Highway Safety Programs, Grants Branch, the DOT Section 402 and 405 program funds are administered by NHTSA. The KOHS uses these funds to enhance traffic enforcement statewide, utilizing traffic enforcement programs such as Click it or Ticket, Drive Sober or Get Pulled Over, and speed week. Section 402 includes planning and administration, motorcycle safety, occupant protection, police traffic services, impaired driving, high visibility advertising, and community traffic safety. Section 405 covers occupant protection, traffic records, impaired driving, distracted driving, and motorcycle safety.

The Education Branch within the Division of Highway Safety educates on occupant protection utilizing different presentations including child passenger safety as well as rollover simulators. The branch educates on the dangers of impaired driving by utilizing a 3D simulator to show the effects of drunk and drugged driving. They also use ghost outs, mock crashes, and other presentations such as a distracted driving simulator. The branch presented 147 school programs and 50 non-school programs for corporate offices and government agencies between 2015 and 2017. The Education Branch uses a data collection analysis where they assess public attitudes on driving safety and promote changes in driver behavior. The Education Branch also monitors and guides ignition interlock device (IID) installations and inspections, they certify IID vendors and educate judges and law enforcement on IID requirements.

The Division of Incident Management, Roadway Assistance Branch has 21 operators, three secretary support staff, two support staff, and five vacant staff slots. The Traffic Operations Center (TOC) consists of four staff members for the first shift, four staff members for the second shift, three staff members for the third shift, and three support staff. The budget for the Division of Incident Management consists of $902,222 for personnel costs for TOC, $1,997,778 for personnel for Incident Management and SAFE Patrol, $1,314,000 for trucks and equipment, and $35,900 for supplies.

The Transportation Operations Center is a 24/7 point of contact for KYTC. The center coordinates and disseminates information on traffic issues, road closures, and weather events. The center dispatches for SAFE patrol and incident management coordinators, and also supports KYTC district incident management teams. The TOC has three shifts with 11 operators. SAFE patrol consists of 26 highway safety patrol officers with 13 crews with three sections. The average yearly activity consists of 37,000 stops, which averages to approximately 1,400 stops per operator per year. There are three section supervisors one for the East region, one for the West region and one for the Central region. SAFE Patrol assists with special events such as the Kentucky Derby and Oaks, and Thunder over Louisville. The safety administrators for three regions (east, west, and central) cultivate federal, state, and local responder partnerships, and respond to major incidents. The Division of Incident Management has an incident action plan put in place for the 2017 solar eclipse that includes partnerships with KYTC, KYEM, KY Fire Commission, and the Department of Aviation. There will also be a mobile operations center provided.

Dr. Hunter stated that more than $1.16 million support national campaigns developed by the National Highway Traffic Safety Administration such as Click it or Ticket, Drive Sober or Get Pulled Over, Motorcycle Safety Awareness Month, and Distracted Driving Awareness Month. There are also statewide sponsorships such as the University of Kentucky, the University of Louisville, Morehead State University, Kentucky Speedway, and different local radio shows that target most at risk demographics. The department is shifting the communication strategies away from a statewide approach to combat message fatigue to personalize these local and lifesaving safety messages particularly on seatbelt use. Local Heroes is one example of the shifting strategy, which compliments the local Click it or Ticket campaign with local imagery, PSAs, cable television, print media that sends the message from law enforcement which would much rather write a ticket than make a death notification. Dr. Hunter stated it shows that law enforcement officers care about their communities.

Dr. Hunter stated all of which had been shared is a move towards reversing the trend of traffic fatalities and serious injuries in Kentucky. To do so effectively, data must be relied upon that effectively illustrates the realities of highway safety. The data collected indicates an increase in fatalities. There has been a move away from the liner model because it artificially lowered the expected fatalities and injuries over the next five years. Instead, a polynomial approach has been adopted that does indicate an upward trend in crash fatalities, but the activities of the department will ultimately reverse that trend. The department is working with Kentucky Injury Prevention and Research Center (KIPRC) to observe the problems differently such as through heat maps of unbelted collisions in counties. It is the hope that each individual county will be observed through such maps to see where changes need to be made individually and collectively. Dr. Hunter stated motor vehicle deaths can be observed by county of occurrence, home-county of the patient, inpatient hospitalization and emergency room visits. These data points allow for cross reference internal county ranking systems overlaid with traffic records data, and feedback and experience in the field to address the traffic safety problems in a holistic way. The cost of traffic collisions in Kentucky is approximately $17.7 billion, with fatalities costing almost $6.9 billion, nonfatal injuries costing almost $10 billion, and property damage costing almost $1 billion.

In response to a question asked by Representative Wells, Dr. Hunter stated the linear model has been used since the highway safety plan has come into place, and that there is a requirement to have a specific formula for how fatalities and serious injuries are determined so counter measures can be assigned appropriately. She added that this is the first year that the office has worked closely with the highway safety improvement program. The FAST Act requires that the alignment of three core measures; fatalities, fatality rates, and serious injuries. When KOHS started to do that, they found that the NHTSA model artificially showed a lower fatality rate than what the data says should exist. But when a polynomial model was used, there was greater confidence in the data, unfortunately showing the number of fatalities will increase over time. Dr. Hunter is confident that the intervention methods that are used over time will drive those rates down.

In response to a question by Representative Fleming, Dr. Hunter stated Mr. Schwendau, serves on an autonomous vehicle work group that is studying how AVs will affect safety on Kentucky's roadways. She added the concerns for Kentucky are several. There is an older fleet of vehicles, so even as autonomous vehicle technology begins to become more prevalent in Kentucky, it may be decades before most of the driving public could acquire or afford such technology. There is concern on how AVs will affect law enforcement. Kentucky is hosting a National Highway Safety conference in September in which panels will be held to discuss such issues.

In response to a question asked by Representative Bechler concerning how the cost of traffic collisions in Kentucky of approximately $17 billion is determined, Dr. Hunter stated there is a complex formula that is used. Representative Bechler requested someone contact him to go over the formula as he is somewhat skeptical of the cost that has been derived. In response to a second question asked by Representative Bechler, Dr. Hunter stated there is no data on impaired driving differentiating between alcohol-related or drug-related impairment, however she would like to see data concerning the difference in the future. There is data available on alcohol related accidents under and over the legal limit of 0.08.

In response to a question asked by Representative Santoro concerning the possibility of KYTC looking into closing railroad crossings which could help reduce accidents involving trains, Dr. Hunter stated she is unaware if that has been looked into. Wayne Gentry sits on the Governor's Executive Committee for Highway Safety and is very concerned about railroad crossings. Dr. Hunter will confer with him concerning that issue.

In response to a question asked by Co-Chair Rader, Dr. Hunter stated KOHS discourages any fundraising activities that involve standing in roads or intersections, due to safety concerns.

Representative Riggs stated more accidents seem to be occurring in metropolitan areas, therefore the services that are provided should be provided in metropolitan areas as well as urban areas in order to improve accident data.

Chairman Harris stated the use of cable barrier and signage are cost effective ways to reduce accidents and he appreciates KYTC following through with both of those things. Chairman Harris also encouraged the continued visitation of schools in order to educate students on the prevention of accidents and how to improve roadway safety. In response to a question asked by Chairman Harris concerning TOC and the use of cameras, Dr. Hunter stated some of the cameras in the TOC are focused on major interstates and roadways, but Tri-Mark is a partner with KYTC in which cameras are also used and information is obtained through them as well.

Lifesaver Application for mobile electronic devices

Jim Howell, Vice President of Marketing and Sales for LifeSaver App, and Kevin Corman, Jessamine County Sheriff, President, Kentucky Sheriffs Association, testified about the Lifesaver Application for mobile electronic devices. Mr. Howell stated the Lifesaver application is an application that when placed on a mobile device prohibits phone use while driving, sends a notification when the driver has arrived safely to their destination, and sends notifications if a driver attempts to override the use of Lifesaver. Lifesaver is often used by parents or fleet management. Mr. Corman stated the Kentucky Sheriffs Association voted to support the Lifesaver application. Mr. Howell stated in 2016 there were 427 fatalities in Kentucky due to motor vehicle accidents and to date in 2017 there have already been 387 fatalities due to accidents. It is the goal of Lifesaver to help reduce texting and driving in hopes of reducing accidents and fatalities or serious injuries. Mr. Howell added that State Farm Insurance reports a $7 billion operating loss on auto insurance in 2016, an increase of 63 percent from $4.4 billion loss in 2015. Allstate Insurance reports a net income decline of 25.8 percent and Kentucky Farm Bureau reports a loss ration increase of 4 percent in 2016. He added that just as Mothers Against Drunk Driving (MADD) led the charge to reduce drunk driving fatalities by more than 50 percent since 1980, it is the bold goal of Lifesaver to reduce distracted driving by 50 percent within five years' time. The Oregon Department of Transportation has paired with Lifesaver in order to combat distracted driving. Mr. Howell asked members to encourage the use of the Lifesaver application in order to help reduce automobile accidents and save lives.

In response to a question asked by Representative Harris concerning how the application differentiates between the driver and the passenger trying to use their phone, Mr. Howell stated there is a passenger bypass button on the application.

Road Fund update - FY 2017 report and budget reduction update

Robin Brewer, Executive Director for the Office of Budget and Fiscal Management, Kentucky Transportation Cabinet, testified about the Road Fund and the FY 2017 report and budget reduction. The official enacted revenue estimate for FY 17 was $1, 456.9 million, however the actual revenues collected were $1,508.0 million, therefore KYTC ended up exceeding the estimate by $51.1 million for the year, approximately 3.5 percent over the official enacted estimate. As far as the motor fuels component of the Road Fund, the official enacted revenue estimate was 747.3 million, the actual received revenue was $760.5 million resulting in a surplus of $13.2 million. The motor vehicle usage tax was estimated at $469.5 million and what was actually received was a record collection of $499.8 million, leaving a surplus of $30.3 million over what was estimated.

Ms. Brewer compared the actual revenues of FY 2017 to FY 2016. In total, $1,508 million was received in FY 2017 and $1,482.5 million was received in FY 2016, an increase of 1.7 percent. The motor fuels tax received in FY 2017 was $760.5 million compared to $750 million in FY 2016, an increase of 1.4 percent. The motor vehicle usage tax received in FY 2017 was $499.8 million, in FY 2016 $484.4 million was received, an increase of 3.2 percent.

Ms. Brewer compared the FY 2018 official enacted revenue estimates to the FY 2017 actual revenues. In total, $1,478.2 million was estimated to be received in FY 2018 compared to the actual revenues received in FY 2017 of $1,508, resulting in a shortfall of $29.7 million and a change of -2 percent. The estimated motor fuels tax to be receive for FY 2018 us $749.8 million compared to the actual received motor fuels tax of $760.5 million in FY 2017, a reduction of 1.4 percent. The motor vehicle usage tax estimated to be received in FY 2018 is $485.7 million compared to the actual revenues received of $499.8 million in FY 2017, a reduction of 2.8 percent.

Ms. Brewer stated historically, the motor fuels tax revenues have gone from $563.5 million in FY 2007 to $760.5 million in FY 2017, with peak numbers of $886.2 million in FY 2014. She provided a graph to demonstrate the volatility of the motor fuels tax revenue over the last decade. A chart was also provided to show the road fund daily cash balance. The chart demonstrated that the road fund daily cash balance has dramatically decreased from January 2013 to the projected April of 2019.

In response to a question asked by Senator Hornback, Ms. Brewer stated there are approximately 30,000 registered hybrid vehicles on Kentucky roadways. Senator Hornback requested that, in the future when Road Fund amounts and other budgets are decided, the upward trend towards fuel efficient and hybrid vehicles be taken into consideration.

Ms. Brewer gave a short update on AVIS as requested by Representative Imes. The cabinet continues to try to recover any costs from insurance companies when citizens have accidents that involve state property such as run-ins with guardrails, signs, or other state property.

Ms. Brewer stated the general fund reduction order 17-02 was filed on July 19, 2017 which resulted in $62,300 being cut from KYTC's budget for FY 2017. Those funds were from the Office of Transportation Delivery and are used for state match on federal public transit grants for public transportation. Additionally, the excess and unappropriated amount of $900,000 cash in three restricted fund accounts was transferred to the general fund for the shortfall from the following accounts: $100,000 from the motor boat titling fund, $200,000 from the Avis replacement account, and $600,000 from the county clerk IT improvement account.

In response to a question asked by Representative Fleming, Ms. Brewer stated the revenue projections are derived from the findings of the Consensus Forecasting Group, led by Greg Harkenrider from the Governor's Office for Economic Analysis.

With no other information to come before the committee, Chairman Harris adjourned the meeting at 11:30 A.M.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

July 5, 2017

Call to Order and Roll Call

The 5th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, July 5, 2017, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Stephen Meredith, Dennis Parrett, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, and Brandon Reed.

Guests: Warren Beeler, Executive Director, and Bill McCloskey, Deputy Executive Director, Governor's Offce of Agricultural Policy, Dave Maples, Executive Vice President, Kentucky Cattlemen's Association, Becky Thompson, Director, Kentucky Beef Network, and Cary King, Chairman, Kentucky Beef Network.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Susan Spoonamore and Rachel Hartley, Committee Assistants.

The June 7, 2017 minutes were approved by voice vote, without objection, upon motion made by Represenative Reed and seconded by Representative King.

Governor's Office of Agricultural Policy Report

Warren Beeler described the Agricultural Development Board's approved projects and future projects under the program. Bill McCloskey highlighted programs including County Agricultural Investment Program, Deceased Farm Animal Removal Program, Shared-use Equipment Program, Youth-Agriculture Incentives Program, and Kentucky Agriculture Development Fund.

The projects discussed were:

TerrePURE Kentucky Distillers, Inc., approved for up to $300,000 in State and County funds to construct feedlot facilities for managing distillery by products.

In response to a question from Senator Parrett, GOAP officials stated any farm or individual can bypass county and request funds directly from state.

City of Mt. Sterling, approved for up to $130,000 in State and $10,000 in Montgomery County funds for the construction of a farmer's market structure.

Fleming County Board of Education, approved for $50,000 in State and $5,000 in Fleming County funds for the construction of a farmer's market pavilion.

Victory Hemp Foods, LLC, approved for up to $296,002 in State and County funds to update commercial scale processing plant.

Henderson County Fair, Inc., approved for $5,000 in Henderson County funds to build a livestock pavilion.

Baesler Farms, denied request for $97,522 in State funds and $15,000 in Fayette County funds to produce CBD oil.

Beef Industry Report

Dave Maples discussed Kentucky beef industry assets including millions of acres of fescue, water, and marketing structure. KCA produces additional funds through membership fees, monthly publications, and concession stand at the state fairgrounds. Funds between two organizations, the KCA and the Beef Network, are separate.

KBN training programs include Beef Quality Assurance, Cattle Handling and Care, Certified Pre-Conditioned for Health, and Integrated Traceability Solutions Process Verified Program.

Integrated Reproductive Management was created to enroll farms from eastern Kentucky with a goal to change producer behavior. He said the pregnancy rate increased from 83 percent to 89 percent which increased revenue by 24 percent.

The University of Kentucky offers master series programs including Master Cattlemen, Master Stocker, Applied Master Cattlemen, and Master Grazer. Eden Shale Farm in Owen County is utilized as an educational farm with the barn as a classroom.

As part of the project, consumer research conducted concluded longer shelf life is needed. Styrofoam will no longer be used for packaging products.

Kroger approached the KBN to create a project for its stores. Beef Solutions, LLC formed to act as a middle man between Kroger and farmers.

The Yards is a new project which will function as a classroom environment with a lobby that will resemble a museum. Public will be invited to stockyard.

In response to a question by Representative King, Becky Thompson explained certification and equipment needed before a product roll out. The goal is to enroll cattle in September and have product ready for distribution in October.

In response to a question by Senator Parrett, Dave Maples stated there are no other states creating this type of project and the number of jobs created will depend on success of project. Ms. Thompson stated it will reinforce existing jobs to keep them in the state.

In response to a question by Representative Dossett, Ms. Thompson stated the amount of revenue the beef industry puts into the state is over a billion dollars.

The chair stated the next meeting is August 4, 2017. Documents distributed during the meeting are available with meeting material in the LRC Library. There being no further business, the meeting was adjourned.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

2017 Interim

July 13, 2017

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, July 13, 2017, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order and led the audience in the Pledge of Allegiance and a prayer, the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Senators Perry B. Clark, Wil Schroder, Dan "Malano" Seum, Reginald Thomas, Stephen West, and Whitney Westerfield; Representatives Brian Linder, Rob Rothenburger, Arnold Simpson, and Walker Thomas.

Guests: Mark Bunning, Deputy Secretary, Finance and Administration Cabinet; Tom Stephens, Secretary, Personnel Cabinet; and Cynthia Gaskill, Professor, Department of Veterinary Science, University of Kentucky.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall, Van Knowles, Jean Ann Myatt, Brandi Norton, William Spears, Shane Stevens, Joel Thomas; Dexter Horne, and Eve Wallingford, Graduate Fellows; and Kate Talley, Committee Assistant.

Minutes for June 8, 2017

Upon motion by Representative Thomas and second by Senator Clark, the minutes for June 8, 2017 were approved by voice vote.

Overview of staff report *Information Technology In Kentucky State Government* (Adopted November 13, 2014)

Van Knowles summarized the 2014 Program Review staff report.

Information technology (IT) infrastructure consists of computers, servers, networking hardware, phone systems, operating systems, and productivity or utility software. Infrastructure provides the building blocks for business applications such as eMARS, KHRIS, or KAVIS.

Program Review staff surveyed agency leaders and staff about the state's IT assets. Overall, state agencies rated their IT assets as better than average, but not excellent. Some older business applications still worked well but suffered from various weaknesses.

Agencies reported numerous instances of major IT applications that were difficult to use, and some needed imminent replacement. Several applications that needed replacement were very large projects costing millions of dollars. Agencies often submitted multiple requests for replacement that went unfunded for multiple capital planning cycles. Some smaller IT needs were also unmet, usually because of budget limitations. Agencies rated funding needs as the greatest challenge to improving technology.

At the time of the report, the executive branch was undertaking a technology infrastructure consolidation to bring all infrastructure assets, along with all related support personnel, under direct management of the Commonwealth Office of Technology (COT). New infrastructure purchases were to be made through COT, and only COT could hire infrastructure support staff. All IT personnel actions required approval by the Finance and Administration Cabinet (FAC). Agencies paid COT a monthly fee for the cost of equipment, software, and support services. COT's entire budget consisted of payments from other agencies.

COT had begun to intercede with agencies' plans for their own business applications, attempting to ensure standard development methods, to share common solutions among agencies, and to improve sharing of data among agencies. Some agencies expressed frustration with COT's billing process for infrastructure services, other aspects of infrastructure consolidation, and the process of developing new business applications. The report recommended that COT address these concerns.

Many agencies reported difficulty hiring and retaining IT professionals. Partly as a result, much of the state government IT workforce consisted of contractors. The state might be able to save money by making changes to attract, hire, and retain IT employees rather than contractors. The report recommended that the Personnel Cabinet, in consultation with FAC and other agencies, conduct a classification and compensation study assessing the overall cost of equalizing IT compensation with private industry compared to the cost of continuing to use IT contractors.

Some large capital IT projects suffered from cost overruns and delays. Some problems appeared to arise from the procurement process and others from project management. Agencies were not required to consult with COT when developing their procurements. Each agency was responsible for its own project management with no direct oversight. Improved procurement and project management procedures might reduce losses on large projects. The report recommended that FAC and COT ensure that all agencies consult with COT at the earliest stages of considering new or updated business applications and that all agencies develop their procurement and project designs with input from COT and the cabinet's Office of Procurement Services. The report also recommended that FAC and COT, at their discretion, should ensure that all agencies employed certified or experienced project managers for capital IT projects. COT should actively review and measure the progress of such projects and maintain records to develop evidence-based best management practices.

Attacks on IT systems are increasing in frequency and sophistication across the private sector and government. Although Kentucky had not reported any major security breaches, the Auditor of Public Accounts found IT security vulnerabilities. HB 5, enacted in 2014, included provisions for reporting security breaches. Ten agencies reported breaches that would have required reporting under HB 5. IT security is not necessarily the province of specialists—agency leaders and staff must be aware of potential threats for effective security across the enterprise. The report recommended that COT ensure that all agencies prioritize technology security initiatives and maintain continuing communication and training for their staff on evolving threats and best practices to safeguard sensitive information in their keeping.

Program Review staff examined four specific business applications: the statewide accounting system (eMARS), the statewide human resources system (KHRIS), the public assistance eligibility system (KAMES), and the motor vehicle information system (AVIS).

The two enterprise applications were more up to date but received a greater number of complaints than the two agency applications. However, eMARS and KHRIS serve many different agencies, making them visible to more users with differing needs. EMARS is a comprehensive package that serves all state agencies. Some deficiencies were found, most notably its inability to serve all the accounting needs of all agencies. Many agencies supplemented the accounting system with their own business applications or manual procedures, creating extra work. The report recommended that COT work with the Office of the Controller and agencies that use the statewide accounting system to find out all the extra procedures and business applications that agencies use to meet their accounting needs. The offices should identify the reasons that agencies need these additional procedures and applications and then develop solutions so that agencies may use eMARS more efficiently.

Agencies rated KHRIS less highly than eMARS, but KHRIS was newer and had less time to mature and achieve acceptance.

KAMES and AVIS, the agency applications, were decades old and in the process of being replaced. Both were reported as performing their basic functions well but being difficult to modify when needed. They suffered from the same inefficiencies as other outdated applications.

It was not possible to determine accurately the total annual cost of technology in state government using the statewide accounting and personnel systems. Accounting for IT expenditures on goods and services was improving but still imprecise. It seemed likely that IT accounting would improve greatly if agencies better understood the use of object codes that describe the purpose of purchases in eMARS. The report recommended that FAC produce and maintain a document explaining the intended use of each object code in eMARS. The cabinet should implement an ongoing process to verify that agencies were using object codes correctly and take corrective action when needed.

The amounts spent for IT staff could not be determined using available information in eMARS and KHRIS. The report recommended that COT work with FAC and the Personnel Cabinet to develop a means to calculate the full-time equivalents and personnel costs of information technology work by state employees.

Response to recommendations in staff report *Information Technology In Kentucky State Government*

Mr. Bunning said COT can lower annual IT costs by $50 million. The two primary areas of focus in the COT budget are infrastructure and application development. COT spends $100 million on infrastructure and $20 million on application development. These revenues are generated through charges to other agencies for rated services and enterprise assessments.

Recommendation 2.1 of the report was that COT address concerns about costs and billing. COT has reimplemented the Technical Advisory Council (TAC), which meets monthly. There are three tiers of monthly billing to each cabinet.

Recommendation 4.1 was that eMARS object codes be clearer. The codes are clear for the $120 million of COT spending.

IT spending for the state is close to $500 million annually. Spending by COT is $120 million, IT operating expenditures by executive agencies are $200 million, and IT capital projects are $180 million. The $50 million reduction target is a 10 percent reduction in cost. By consolidating IT equipment and personnel into COT, costs have been cut by $12 million to $15 million annually.

TAC is looking at the $380 million budgets for capital projects and operating expenses to cut costs on about 2,400 agency applications. Each agency owns and manages its own applications, but consolidation may lead to savings. TAC has done an inventory of applications to categorize and consolidate to reduce redundancies. TAC will need to review statutes to make sure consolidation is compliant with requirements for data handling. COT is looking at trying to reduce legacy systems.

Recommendation 2.3 was that COT be involved at the outset of agencies' large IT projects. COT is improving in this area. It has business relationship managers, each of whom should have intimate knowledge of every application at his or her designated cabinet. This past biennium, four agencies proposed IT capital projects to develop document management applications.. If COT had central authority for applications, this type of redundancy could be eliminated if one project could meet all the needs.

Recommendation 2.5 concerned security initiatives, communication, and training to safeguard information. The chief security information officer makes regular presentations to TAC to explain exposures and risks.

COT hopes to realize savings with oversight of applications. It may be helpful if the state adopted a program like the federal IV&V [independent verification and validation] process. Recommendation 2.4 would be met if COT could structure its budget in the next budget cycle to handle oversight of applications.

COT has 520 staff who deal with infrastructure: 360 state employees and 160 contract employees. There are 887 state employees (33 in COT) and 573 SDS contract employees (29 in COT) who work on applications.

Recommendation 4.2 concerned a means to calculate the full-time equivalents (FTE) and personnel costs associated with IT work by state employees. These are known for the SDS contract, which is through COT. COT is unaware of FTEs of contracts outside COT. All agencies would have to cooperate to do a comprehensive FTE count. Identifying non-merit IT staff could be an issue.

For COT to reach its savings target, it needs to finish I3 [IT Infrastructure Initiative] consolidation, strengthen IT applications oversight, remove legacy systems, and move toward optimizing phases.

In response to a question from Senator Clark, Mr. Bunning said he was unsure if legislation or a change to regulations was necessary to give COT authority over applications to reduce redundancy.

In response to a question from Senator Carroll, Mr. Bunning said every cabinet has its own budget and there is a lack of oversight at a higher level to reduce redundancies. For example, five cabinets bought the same software before COT realized it. COT established an enterprise relationship for the software at the same price. It was then available to all cabinets.

Mr. Bunning said that COT needs to:

finish I3 consolidation, which would save approximately $25 million;

continue to collapse and optimize licensing and hardware, including leasing hardware and using cloud-based solutions;

strengthen oversight on IT applications and have a centralized view on IT spending on applications, operating budgets, capital projects, and agency staffing; and

focus on reviewing and measuring progress of projects to develop best management practices as suggested in recommendation 2.4. TAC is starting to do this, but it will be a long process.

Recommendation 2.2 is that a study should be done to compare the cost of IT compensation with private industry. This is challenging because some of the legacy system applications in use are so old that employees who know them are hard to find.

COT needs to adopt a mentality of buy versus build, which would typically be less expensive. COT could help agencies share existing solutions. TAC is working on a request for proposals that will allow COT to bid on turn-key solutions.

Standard platforms need to be established statewide. Utilizing the cloud is secure with lower upfront cost. COT oversight will help focus on enterprise-wide solutions rather than just cabinet solutions. IV&V will help to achieve this goal. COT is preparing a reorganization to include business relationship managers who will be liaisons with cabinets. In summary, central COT oversight of applications would help save money.

In response to questions from Senator West, Mr. Bunning said COT manages the hardware for the AVIS system, but information on the system update would need to come from the Transportation Cabinet. If COT gets involved in enterprise solutions, statutes that restrict data may need to be addressed and cooperation from all cabinets will be needed. COT hopes to present legislation in the 2018 regular session that would address statutes relating to data sharing. This requires identifying all relevant statutes for COT and each cabinet.

In response to questions from Senator Carroll, Mr. Bunning said that agencies have approximately 50 methods to collect fees. COT should be looking for an enterprise solution to accommodate all the ways to collect fees. Cloud storage is automatically backed up. Using cloud storage also changes spending from capital to operating, which is more consistent over time.

Senator Carroll asked for a comment on Deloitte and asked whether the experience with Deloitte had been studied sufficiently. Mr. Bunning said that COT uses many great outside vendors. Each application is unique. A good structure in the beginning and knowing the desired result will determine the success of a project. Communication would be better with COT having oversight of all IT spending and staffing.

Mr. Stephens said that he only recently became aware of Recommendation 2.2, that a compensation study be done. The committee adopted the report and its recommendations in November 2014. A current staff person who worked in the cabinet at the time told him that someone from the governor's office called to say that the study should not be done. In general, the benefit structure for the state is costly. It is difficult to maintain the type of workforce needed in COT. Turnover is a challenge.

In response to a question from Senator Carroll about developing IT talent, Mr. Stephens said Labor Cabinet Secretary Ramsey is an advocate for internship programs, but available funding is lacking.

In response to a question from Senator Carroll, Mr. Bunning said COT evaluates each decision to determine whether outsourcing is appropriate. It depends on cost.

In response to questions from Senator Thomas, Mr. Stephens said that the state has a compensation and classification system in place, but the salary scale has not been adjusted in over 10 years. If funds were available to adjust salary scales, the state could compete with the private sector for IT workers.

In response to questions from Senator West and Senator Westerfield, Mr. Stephens said that he will determine the origin of the compensation study request. A compensation study like the one requested would take 6 to 9 months to complete. Mr. Bunning commented that he was also unaware of the report until recently when he received the request to respond to the report's recommendations.

Senator Carroll read recommendation 2.2 from the Program Review report and clarified that this is the recommended compensation study in question.

In response to a question from Senator Thomas, Mr. Stephens said the commissioner of the Department of Human Resource Administration in the current and previous administration said that she was told by Mary Lassiter, secretary of the Governor's Executive Cabinet, not to perform the compensation study. There is nothing in writing about this.

In response to questions from Representative Simpson, Mr. Stephens said it is challenging to obtain and retain talent for the Department of Corrections, largely due to locations in rural areas. The cabinet has looked at several initiatives to obtain personnel, including accepting military service to offset training requirements in correctional positions. In some other professions, it is difficult to provide services because of the lack of qualified personnel. For example, it has not been possible to hire HVAC personnel for the LEED-certified Sower building. Ultimately, there is a lack of funds to be competitive.

In response to a question from Representative Simpson about the frustration of hiring for COT, Mr. Bunning said he recently hired someone who left after 2 weeks to the private sector for double the salary.

2016 Study of Current Conditions of Kentucky County Animal Shelters and Degree of Compliance with Kentucky Animal Shelter Laws (University of Kentucky)

Ms. Gaskill said that 10 years ago she learned that the animal shelter in her county was an old barn. In 2004, legislation was enacted requiring that each county set up its own shelter program or contract with another county. Shelter standards are minimal. There are no requirements for adoption programs, spay/neuter programs, or prophylactic veterinary care. By 2007, counties were supposed to be in compliance of the 2004 legislation, but there are no enforcement provisions.

The University of Kentucky, Morehead State University, and Lincoln Memorial University provided funding for a study of conditions of county shelters. Veterinary students from Lincoln Memorial University visited each county shelter. There are 92 county shelters that serve the 120 counties. Overall, 12 percent of shelters followed all parts of the law, 27 percent violated one or two parts of the law, and 57 percent violated three or more parts of the law. Four percent were classified as undetermined. Shelters of different levels of compliance are spread across the state.

Shelters were also measured on a general grading system for good, modern, standard shelter practices but that are not required by law. Overall, 21 percent of shelters were good quality, 42 percent needed improvement in a few areas, and 36 percent needed improvement in many areas. One percent of shelters were classified as undetermined.

Nearly one-half of county shelters do not have quarantine areas, 75 percent are not adequately sized, and 25 percent do not accept cats. About a third of the shelters that accept cats are in deplorable condition. Some shelters were never open to the public and over half did not have impervious building materials.

The major problems identified by shelter workers were a lack of funding, lack of low-cost spay/neuter programs, and lack of education for shelter staff and the public. Over 50 percent of county shelters still have problems in complying with current standards. In 2004, $3 million was made available to counties to improve shelters, but no additional money has been made available. Self-regulation by counties is not working. Enforcement is necessary if all counties are to come into minimum regulatory compliance.

In response to questions from Senator Schroder, Ms. Gaskill said the undetermined measurements were shelters that were closed for legal purposes or in the process of being built. There are some requirements in statutes for humanely euthanizing injured or sick animals. If a shelter does not have an adoption program, the minimum hold time is 5 days. The students did not evaluate euthanization as part of the study. Many shelters participate in interstate adoption programs to address overpopulation. After the study was published, many shelters asked for help on ways to improve.

Representative Linder commented that this is a good example of how government should work. While he worked on the Grant County Fiscal Court, many local groups asked for improvements to the local shelters.

Senator Carroll agreed that many of the problems can be helped at the local level. Based on visiting Lebanon and seeing the amount of industry in the area, Senator Carroll said that for the next committee meeting he would like to see how the Cabinet for Economic Development presents packages to prospective companies looking to locate in Kentucky and see statistics on the past 10 years.

Representative Simpson commented that he would like to include information on incentives offered and whether there are mechanisms to assure performance. Reports are not received on what happens with the incentives.

The meeting adjourned at 12:06 PM.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 3rd Meeting of the 2017 Calendar

July 18, 2017

Call to Order and Roll Call

The 3rd meeting of the Capital Planning Advisory Board was held on Tuesday, July 18, 2017, at 9:30 AM, in Room 131 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Daniel Elliott, Co-Chair; Senator Whitney Westerfield, Representative DJ Johnson; Charles Byers, Carole Henderson, William Landrum, Dan Markwell, Mark Overstreet, Kaelin Reed, and Katie Shepherd.

Guests: Wendell Followell, Vice President, Ken Marks, System Director, Facilities Support Services and Capital Projects, and Sandy Adkins, Director of Capital Projects and Budgeting, Facilities Support Services, Kentucky Community and Technical College System; David T. McFaddin, Ed.D, Vice President, Office of Engagement, Regional Stewardship and Government Relations, Paul Gannoe, Associate Vice President, Facilities Services and Capital Planning, Capital Construction and Project Administration, and Ryan D. Green, Executive Director, Budgeting and Financial Planning, Eastern Kentucky University; Sue Hodges Moore, Senior Vice President for Administration and Finance, Mary Paula Schuh, Director of Campus and Space Planning, and Syed Zaidi, Assistant Vice President for Facilities Management, Northern Kentucky University; Kevin Appleton, Senior Vice President for Finance and Administration, and Joseph Gronefeld, Senior Project Manager, Kentucky State University; Lee Smith, Chief Operating Officer, and Jim Sears, Associate Vice President for Facilities Management, University of Louisville; Angela Martin, Vice President for Financial Operations, Chief Budget Officer, and Mary Vosevich, Vice President for Facilities Management, Chief Facilities Officer, University of Kentucky; Rick Linio, Assistant Vice President for Facilities, and Beth Patrick, Chief Financial Officer and Vice President for Administration, Morehead State University; Bryan Russell, Chief Facilities Officer, and Dr. Michelle Trawick, Associate Dean of the Gordon Ford College of Business, Western Kentucky University; Dr. Robert O. Davies, President, and Jackie Dudley, Vice President for Finance and Administrative Services, Murray State University, Sherron Jackson, Senior Fellow Finance and Budgets, and Ron Carson, Senior Fellow and Legislative Liaison, Council on Postsecondary Education.

LRC Staff: Shawn Bowen, Julia Wang, and Jennifer Luttrell.

Approval of Minutes

A motion to approve the minutes of the June 20, 2017 meeting was made by Senator Westerfield, seconded by Representative Johnson, and approved by voice vote.

Consideration of Agency Plans

The Capital Planning Advisory Board received testimony regarding 10 state agency capital plans: Kentucky Community and Technical College System (KCTCS), Eastern Kentucky University, Northern Kentucky University, Kentucky State University, University of Louisville, University of Kentucky, University of Kentucky Hospital, Morehead State University, Western Kentucky University, and Murray State University. The testimony included discussion of capital construction, information technology, and equipment needs for the period 2018-2024.

Kentucky Community and Technical College System

Wendell Followell, Vice President, Ken Marks, System Director, Facilities Support Services and Capital Projects, and Sandy Adkins, Director of Capital Projects and Budgeting, Facilities Support Services, gave a brief overview of the KCTCS capital plan. For the six-year period, the KCTCS capital plan included 132 proposed projects totaling $1,120,200,000.

In response to a question from Mr. Landrum, Mr. Followell stated that KCTCS has very limited resources, and when capital projects are not funded, maintenance pool funding is utilized to the extent possible to fix small projects.

In response to a question from Representative Johnson, Mr. Marks replied that KCTCS projects are solely funded with state funds, and there is no match from local sources. Mr. Marks said through the BuildSmart Initiative, they have reached out to local communities to help, and they have stepped up.

In response to a question from Senator Humphries regarding KCTCS' deferred maintenance needs, Ms. Adkins said in the 2016-2022 Capital Plan, KCTCS requested $20 million for a deferred maintenance pool, and in the current capital plan, the request is $31.6 million. Mr. Followell said KCTCS' could not afford to fund its total deferred maintenance needs, which amounts to over $100 million. Each KCTCS college was asked to present its top priority to include in the pool request. The projects focus on roof replacement projects, HVAC, and electrical repairs.

Eastern Kentucky University

David T. McFaddin, Ed.D, Vice President, Office of Engagement, Regional Stewardship and Government Relations, Paul Gannoe, Associate Vice President, Facilities Services and Capital Planning, Capital Construction and Project Administration, and Ryan D. Green, Executive Director, Budgeting and Financial Planning, discussed the university's capital needs. The university's capital plan, for the six-year period, included 47 proposed projects totaling $863,707,000.

In response to a question from Senator Westerfield, Dr. McFaddin said the unmanned aircraft program is not yet part of the Eastern Kentucky University Aviation Program, however, it will be included in the future. The FDA is writing regulations for such a program at this time.

In response to a question from Senator Humphries, Dr. McFaddin explained that "aeroready" refers the ability to move products, goods, and services via flight. He said EKU is "aeroready" to export products from Kentucky. The Aviation Program has 140 students enrolled and the program is growing quickly.

In response to a question from Mr. Reed concerning the Model Laboratory, Dr. McFaddin said EKU is the only model school left in the state. There are 750 students, kindergarten through grade 12, and the students are predominantly from Madison County. Constructed in 1962, the building is greatly in need of capital investment. The school also serves as critical laboratory space for the university's students to hone their skills and be productive members of their profession.

In response to a question from Representative Johnson, Dr. McFaddin stated the university's top strategic priority is the College of Education

Complex project, which will include either renovation or new construction. The university's second priority is the lease aviation project, which will be co-located with KCTCS partners in Ashland, Jeffersontown, Owensboro, and Somerset; and the infrastructure/maintenance pool is the third priority.

Northern Kentucky University

Sue Hodges Moore, Senior Vice President for Administration and Finance, Mary Paula Schuh, Director of Campus and Space Planning, and Sayed Zaidi, Assistant Vice President for Facilities Management, gave a brief presentation of Northern Kentucky University's six-year capital plan. The university's capital plan, for the six-year period, included 44 proposed projects totaling $683,600,000.

Mr. Landrum asked if there are significant safety concerns associated with the Repair Structural Heaving Landrum/Fine Arts project, the Replace Underground Gas Mains project, and the Replace Underground Water Mains project that should be addressed immediately. Mr. Zaidi stated that NKU has hired structural engineers to perform evaluations, and remedial steps have been taken to address safety issues. He added that there is no immediate threat, but long-term solutions to the problems are needed.

Kentucky State University

Kevin Appleton, Senior Vice President for Finance and Administration, and Joseph Gronefeld, Senior Project Manager, discussed the university's capital needs. The university's capital plan, for the six-year period, included 18 proposed projects totaling $244,587,000.

In regard to the Construct Health Sciences Center project, Senator Humphries asked where the new building will be sited. Mr. Gronefeld said there was discussion about locating the facility off campus, and there was an opportunity for some funding for an off campus location, but it did not work out. He added that there is land on campus, and with the funding from the state, there will not be any restrictions on locating the building on campus.

University of Louisville

Lee Smith, Chief Operating Officer and Jim Sears, Associate Vice President for Facilities Management, discussed the university's capital plan. The university's capital plan, for the six-year period, included 87 proposed projects totaling $1,405,190,000.

In response to a question from Senator Humphries about the Upgrade-STEM Instruction Building project (priority #1, $50 million), Mr. Sears said the project scope was formulated by in-house staff focusing on critical and deficient spaces in eight different buildings. He said 65 percent of the project budget will be invested in mechanical, electrical and plumbing upgrades in buildings over 50 years old. He said the VFA Study concluded that capital renewal needs for the Life Science, Natural Science, and Chemistry buildings totaled over $42 million.

University of Kentucky

Angela Martin, Vice President for Financial Operations, Chief Budget Officer, and Mary Vosevich, Vice President for Facilities Management, Chief Facilities Officer, presented the capital plan for the University of Kentucky. The university's capital plan, for the six-year period, included 288 proposed projects totaling $7,089,800,000. The University of Kentucky Hospital plan contained a total of 67 proposed projects totaling $3,822,000,000.

In response to a question from Senator Westerfield, Ms. Vosevich stated that the Facilities Renewal and Modernization project will include renovation of the Grehan building. While the building is being renovated, the College of Communication and Information (located in Grehan), will be relocated to another facility on campus. Ms. Vosevich said the new location for the College of Communication and Information has not been determined yet. She stated that the Colleges of Communication and Information and Psychology are two of the university's largest growing programs and they expect the growth to continue.

In response to a question from Mr. Reed about future use of the theological seminary, Mr. Vosevich stated no decision has been made yet as to the use of this building other than to use it as swing space.

Senator Humphries asked Sherron Jackson, Senior Fellow Finance and Budgets and former board member, and Ron Carson, Senior Fellow and Legislative Liaison, Council on Postsecondary Education, to brief the members on the VFA Study. In April 2007, the Council on Postsecondary Education entered into a contract for a study of the state's postsecondary education facilities. The study was undertaken by Vanderweil Facility Advisors Inc. (VFA) of Boston, Massachusetts. Mr. Jackson said since the completion of the VFA Study, CPE has sought to implement a process that blended VFA's recommendations of asset preservation, major renovations, and construction of new/expanded education and general facilities to meet the needs of postsecondary institutions. The VFA Study estimated that by 2021 there would be a $12 billion need for asset preservation if the state did not address its postsecondary institution deferred maintenance needs.

Mr. Jackson said CPE has developed an approach and model to address the capital needs of postsecondary institutions. The model recommends that a pool of funds be established and administered by CPE, and funding be done in terms of an allocation of dollars to each postsecondary institution, rather than on a per-project basis. Postsecondary institutions select and rank their projects based on three priority areas: asset preservation, construction of new/expanded education and general research facilities, and information technology initiatives. Each institution submits a project list to CPE in order to be eligible to receive an allocation of funds, and the institutions must agree to meet a certain balance of the expenditures on asset preservation.

This multi-biennia funding approach provides a balanced investment as recommended by the VFA Study; allowing more flexibility for institutions to implement capital projects; allow campuses to better plan for construction; and provides for stronger protection of state-owned assets.

Morehead State University

Rick Linio, Assistant Vice President for Facilities, and Beth Patrick, Chief Financial Officer and Vice President for Administration, presented the university's capital plan. The university's capital plan, for the six-year period, included 59 proposed projects totaling $720,762,000.

In response to a question from Mr. Markwell about the decrease in project scope for the Bert T. Combs Building, Mr. Linio said the university staff worked with the architect to re-evaluate the renovation costs. He added that the scope of work was reduced, and the project is now more focused on asset preservation to keep the building functioning. Ms. Patrick added they came estimated the current project by using the CPE formula to lower the project funding request. [The project scope has decreased from $45,050,000 in the 2016-2022 capital plan to $31,761,000.]

In response to a question from Senator Humphries regarding the Repair Camden-Carroll Library Facade project, Ms. Patrick stated that the university used its own funds to address the stonework problems with the library. She said there has been no help from the Department of Library and Archives or the National Register of Historic Places.

Western Kentucky University

Bryan Russell, Chief Facilities Officer, and Dr. Michele Trawick, Associate Dean of the Gordon Ford College of Business, discussed Western Kentucky University's capital plan. The university's capital plan, for the six-year period, included 52 proposed projects totaling $831,900,000. There were no questions regarding the university's plan.

Murray State University

Dr. Robert O. Davies, President, and Jackie Dudley, Vice President for Finance and Administrative Services, gave a brief overview of Murray State University's capital plan. The university's capital plan, for the six-year period, included 65 proposed projects totaling $576,397,000.

In response to a question from Senator Humphries concerning the gas explosion in New Richmond College and the need for additional funds to repair this building, Dr. Davies said the incident took place in a facility that was built in 2009 and it was most likely a gas explosion. The repairs will be covered by state insurance proceeds.

Senator Humphries stated the August meeting will conclude the review of all capital plans. At that meeting, there will also be two presentations – the state debt report and the Council on Postsecondary Education will present its project report on all postsecondary institution capital projects and capital IT projects.

Adjournment

The next meeting is scheduled for Tuesday, August 15, 2017, in Room 129 Annex starting at 9:30 AM. There being no further business, the meeting was adjourned at 11:55 a.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the July Meeting

July 11, 2017

Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 11, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators, Perry B. Clark, and Alice Forgy Kerr; Representatives Mary Lou Marzian, Jason Petrie, and Tommy Turner.

Guests: Alan Pauw, Judicial Retirement Systems; Margaret Walton, Secretary of State; Gwen Pinson, Finance and Administration Cabinet; Morgan Ransdell, Paula Schenk, Board of Nursing; Amber Arnett, Steve Beam, Karen Waldrop, Department for Fish and Wildlife; Amy Barker, Terry Manuel, Department of Corrections; Beth Milburn, Kevin Osborne, Department for Libraries and Archives; Andy Hightower, Beth Kuhn, Department of Workforce Investment; Laura Begin, Jeffery Sparks, Office of Vital Statistics.

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

FINANCE AND ADMINISTRATION CABINET: Judicial Form Retirement System

4 KAR 1:010. General compliance with federal tax laws. Alan Pauw, attorney with Reed Weitkamp Schell and Vice, represented the system.

In response to a question by Co-Chair Harris, Mr. Pauw stated that he was unable to respond to inquiries regarding actuarial assumptions.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; and (2) to amend Sections 5, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

4 KAR 1:040. Limitation of benefits.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add one definition; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 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.

4 KAR 1:050. Code of professional conduct.

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

OFFICE OF SECRETARY OF STATE: Certifications

30 KAR 2:010. Certification of vacancy in nominations. Margaret Walton, director of business, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to specify examples of documentation that can be submitted to substantiate a vacancy due to death; and (2) 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.

30 KAR 5:060. Search requests and reports.

In response to questions by Co-Chair Harris, Ms. Walton stated that financing statements were filed with the Office of Secretary of State against both individuals and property. Generally, financing statements were filed against movable objects, such as vehicles, crops, and construction or farm equipment. Liens against property were usually filed with the clerk's office, rather than with the Secretary of State. Bankruptcies were not usually filed with the Secretary of State.

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

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Purchasing

200 KAR 5:081. Repeal of 200 KAR 5:081. Gwen Pinson, general counsel, represented the office.

GENERAL GOVERNMENT CABINET: Board of Nursing

201 KAR 20:070. Licensure by examination. Morgan Ransdell, staff attorney supervisor, and Paula Schenk, executive director, represented the board.

In response to questions by Senator Clark, Ms. Schenk stated that she was unaware of any specific efforts to recruit nurses from Puerto Rico. Puerto Rican nursing program requirements did not comply with those of the rest of the U.S.; therefore, the board required applicants to complete the visa-screening process with an evaluation of their nursing program requirements.

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

201 KAR 20:110. Licensure by endorsement.

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

201 KAR 20:225. Reinstatement of license.

201 KAR 20:480. Licensure of graduates of foreign nursing schools.

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

301 KAR 2:222. Waterfowl hunting requirements on public lands. Amber Arnett, attorney; Steve Beam, wildlife division director; and Karen Waldrop, deputy commissioner, represented the department.

301 KAR 2:225 & E. Dove, wood duck, teal, and other migratory game bird hunting.

In response to a question by Co-Chair Harris, Ms. Waldrop stated that wetland and water-fowl areas prohibited lead shot from being used. This administrative regulation expanded the areas and the species covered. Lead shot was not prohibited for squirrel hunting.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Parole Board

501 KAR 1:030 & E. Determining parole eligibility. Amy Barker, assistant general counsel,

represented the cabinet.

In response to a question by Senator Clark, Ms. Barker stated that time-served requirements were established as percentages based on when each crime was committed. The most current percentage was twenty (20) percent.

In response to questions by Co-Chair Harris, Ms. Barker stated that the change in this administrative regulation was in response to Louisville's incarceration overcrowding problem, thus necessitating the emergency administrative regulation. 501 KAR 6:140 addressed a minimum-security facility, Bell County Forestry Camp.

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

Office of the Secretary

501 KAR 6:140. Bell County Forestry Camp.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Libraries and Archives

725 KAR 2:070. Certification renewal of public librarians. Terry Manuel, commissioner; Beth Milburn, division director; and Kevin Osborne, attorney, represented the department.

In response to a question by Senator Clark, Mr. Manuel stated that the workshop, lecture series, and training program references pertained to continuing education.

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

Department of Workforce Investment: Employment Services

787 KAR 2:040 & E. Local workforce development area governance. Andy Hightower, senior policy advisor, and Beth Kuhn, commissioner, represented the department.

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

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

901 KAR 5:061. Repeal of 901 KAR 5:060. Laura Begin, regulation coordinator, and Jeffrey Sparks, administrative section supervisor, represented the division.

901 KAR 5:120. Induced termination of pregnancy reporting.

In response to a request by Representative Marzian, Ms. Begin provided a copy of the Report of Induced Termination of Pregnancy form to Representative Marzian. In response to a question by Representative Marzian, Ms. Begin stated that Vital Statistics did not require similar reporting for other healthcare procedures, such as a colonoscopy or eye surgery. Representative Marzian stated that it was interesting that many Kentuckians were opposed to government intrusion; however, this administrative regulation required government reporting on the most personal private decisions made by Kentuckians. Representative Marzian requested to be recorded as voting in opposition to this administrative regulation.

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

Other Business: Co-Chair Harris introduced a new administrative regulations analyst, Stacy Auterson. The Subcommittee welcomed Mr. Auterson.

The following administrative regulations were deferred or removed from the July 11, 2017, Subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Teaching Certificates

16 KAR 2:020. Occupation-based career and technical education certification.

Educator Preparation

16 KAR 5:020. Standards for admission to educator preparation.

Advanced Certification and Rank

16 KAR 8:040. Ranking of occupation-based career and technical education teachers.

GENERAL GOVERNMENT CABINET: Board of Pharmacy

201 KAR 2:076. Compounding.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Public Water Supply

401 KAR 8:010. Definitions for 401 KAR Chapter 8.

401 KAR 8:011. Repeal of 401 KAR 8:070, 401 KAR 8:101, 401 KAR 8:550, and 401 KAR 8:600.

401 KAR 8:020. Public and semipublic water systems; submetering; general provisions.

401 KAR 8:040. Laboratory certification.

401 KAR 8:075. Consumer confidence reports and public notification.

401 KAR 8:100. Design, construction, and approval of facilities and approval timetable for 401 KAR Chapter 8.

401 KAR 8:250. Inorganic and organic chemical sampling, analytical techniques, maximum contaminant levels, radionuclides, and secondary standards.

Division of Waste Management: Solid Waste Planning

401 KAR 49:011. General provisions relating to area solid waste management plans.

401 KAR 49:080. Solid waste grant funds and solid waste collector and recycler registration.

401 KAR 49:091. Repeal of 401 KAR 49:040, 401 KAR 49:090, and 401 KAR 49:210.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 1:130. Department of Juvenile Justice Policies and Procedures: juvenile services community.

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

601 KAR 2:030 & E. Ignition interlock.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workplace Development: Office of Employment and Training: Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:230. Extended hours supplemental licenses.

Local Administrators

804 KAR 10:010. Appointment notification of local administrator.

Department of Insurance: Health and Life Division: Health Insurance Contracts

806 KAR 17:575. Pharmacy benefit managers.

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

900 KAR 6:125. Certificate of need annual surveys.

Data Reporting and Public Use Data Sets

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

900 KAR 7:040. Release of public data sets for health care discharge data.

Department for Public Health: Division of Public Health Protection and Safety: Radon

902 KAR 95:040. Radon Contractor Certification Program.

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

907 KAR 1:041E. Repeal of 907 KAR 1:018 and 907 KAR 1:019.

Payment and Services

907 KAR 3:206E. Repeal of 907 KAR 3:205.

Outpatient Pharmacy Program

907 KAR 23:001 & E. Definitions for 907 KAR Chapter 23.

907 KAR 23:010 & E. Outpatient pharmacy program.

907 KAR 23:020 & E. Reimbursement for outpatient drugs.

The Subcommittee adjourned at 1:30 p.m. until August 14, 2017, at 1 p.m.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes

July 17, 2017

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Monday, July 17, 2017, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair Designate; Senators Julie Raque Adams, Danny Carroll, Morgan McGarvey, and Stephen Meredith; Representatives Robert Benvenuti III, Jim Gooch Jr., Joni L. Jenkins, and Melinda Gibbons Prunty.

Guest Legislators: Representatives Danny Bentley, Ken Fleming, Russell Webber, and Addia Wuchner.

Guests: Veronica Cecil, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Pat Smith, RMC RMM, Chief Financial Officer, Owner, MD Billing Services, LLC; Rosmond J. Dolen, Kentucky Association of Health Plans; Lynn Tanner, Vice President Payer Strategy and Operations; Krista Matlock, Senior Director Payer Contracting, KentuckyOne Health, Kentucky Hospital Association; Mike Downing, President RSVP Homecare, Kentucky Medical Equipment Supplier Association; Sarah S. Nicholson and Carl Herde, Kentucky Hospital Association; Christina Bowlen, Norton Healthcare; and Matt Corbin, Maxim Healthcare.

LRC Staff: Ben Payne, Becky Lancaster, and Heather Scott.

Election of Committee House Co-Chair

The first order of business was election of the committee House co-chair. A motion was made by Representative Gibbons Prunty and seconded by Representative Gooch to nominate Representative Moser as House co-chair. A motion was made by Representative Gooch, seconded by Representative Gibbons Prunty, and approved by voice vote that nominations cease and Representative Moser be elected House co-chair by acclamation.

Approval of the Minutes from the October 19, 2016 Meeting

A motion to approve the minutes of the October 19, 2016 meeting was made by Representative Benvenuti, seconded by Senator Meredith, and approved by voice vote.

New Medicaid Managed Care Organizations (MCOs) Contracts with the Commonwealth

Veronica Cecil, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated the latest MCOs' contracts became effective July 1, 2017 and will continue until December 31, 2017. The MCOs' contracts added language that requires the MCOs to participate in and pass a readiness review for the Kentucky HEALTH 1115 Waiver in order to be eligible for any future contract extension. The contracts require the MCOs to provide one credentialing process to satisfy credentialing for the MCOs and any of its subcontractors, if permitted under National Committee for Quality Assurance (NCQA) requirements. The Department for Medicaid Services (DMS) has added clarifying language to the contracts stating the external independent third party provider appeal applies to emergency room services. The entire Pharmacy Benefit Section was amended to incorporate changes required by Section 1927 of the Social Security Act as well as clarify language in the contracts. In the contracts, additional language required the MCOs to maintain an adequate behavioral health network for continuum of care upon decertification at a certain level of care. Future managed care contracts will contain specific Kentucky HEALTH 1115 Waiver requirements, changes to quality measures, increased financial reporting and a focus on encounter quality.

In response to questions from Senator Meredith, Deputy Commissioner Cecil stated the Centers for Medicare and Medicaid Services (CMS) requires a minimum of two MCOs for the State but having at least three MCOs gives the Department of Medicaid Services the opportunity to shift members to other MCOs if something happened to one of the MCOs. DMS has not evaluated if going from five to three MCOs would reduce administrative costs. DMS would continue provide oversight and compliance to the MCOs.

In response to questions from Senator Carroll, Deputy Commissioner Cecil stated the current MCOs' contracts have the requirement of a 90 percent Medical Loss Ratio (MLR). The contracts are an extension of the original Request for Proposal (RFP) that contain five MCOs. The department would like to maintain consistency and would need to clarify with CMS before it could do away with any of the MCOs because that could generate an open enrollment process for those members.

In response to questions from Representative Benvenuti, Deputy Commissioner Cecil stated DMS does step back from the administration of the MCOs day to day operations.

In response to questions from Representative Moser, Deputy Commissioner Cecil stated she could provide a report regarding the timeline for credentialing providers. She stated the MCOs require credentialing within 45 days of a complete application for a behavioral health provider. For a regular provider it is 90 days and the department monitors that the reports are reflecting that number. There will be outliers but DMS does write letters of concern if the MCOs are outside of that number of days and the MCOs are not addressing the issue. The department's fiscal agent utilizes a subcontractor to do all utilization management.

In response to questions from Senator Alvarado, Deputy Commissioner Cecil stated prior to July of 2016, the department set a risk corridor for our Affordable Care Act (ACA) Medicaid expansion population, with a MLR between 82 percent and 92 percent. If MCOs were below 82 percent it had a premium refund. Prior to 2016, the only premium refunds have been on the ACA population which is all federal dollars. The premium refunds for calendar year 2014 was $97,023,465.00 and for calendar year 2015 was $42,444,039.00. The department will not see the results of the new requirement implemented in July of 2016 until a year after the close of the 2016 calendar year. DMS hopes the new provider appeal process will aid providers in getting substantiated services through the claim process and push MCOs to change behavior and cover services once an appeal is settled.

In response to questions from Senator Alvarado, Deputy Commissioner Cecil stated the department could compare commercial insurance appeal ratios to Medicaid appeal ratios. The top three appeal requests have been for; air and ambulance, inpatient stays primarily psychiatric, and anesthesia. The MCOs have a Healthcare Effectiveness Data and Information Set (HEDIS) incentive. The MCOs contracts reference providing physician incentive payments. DMS is involved in an innovations grant with CMS to look at value based purchasing.

MCOs Billing Practices

Pat Smith, RMC RMM, Chief Financial Officer, Owner of MD Billing Services and MD Consulting Services, LLC, stated her companies provide consulting and billing services for more than 350 providers, many are in under-served areas of Kentucky. Since the inception of the Medicaid MCOs her companies have experienced extreme difficulties in getting claims paid for the providers. She has increased her management staff by three people to follow up with MCOs. Her companies are waiting four to six months to get a new provider credentialed and effective dates are never backdated. The extended timeframe puts a financial hardship on providers. She recommended MCOs be contractually bound to backdated effective dates for all providers to the one year regulation that has always been a Medicaid regulation. MCOs should be required to properly staff the provider enrollment team so applications could be processed within a 30 day timeframe.

Ms. Smith continues to have problems with taxonomy codes and provider specialties not being loaded correctly. The claims are denied and her companies are told it could take from 30 to 60 days to correct the codes. Once codes are corrected MCOs are requiring her business to send additional information as a special project only to then have to wait another 60 to 90 days for that special project to be processed by the MCOs. Ms. Smith shared several specific examples of how processing and payments were delayed by MCOs. She has assisted in closing many practices that were providing medical care to Medicaid patients in under-served areas. The practices could not financially continue due to not being able to have their claims paid in a timely manner by the MCOs. She is aware of many providers who refuse to see Medicaid patients due to the difficulty of working with MCOs. Ms. Smith asked for support to enforce stricter regulations on MCOs for the sake of Medicaid patients who deserve to have access to medical care.

In response to questions from Representative Fleming, Ms. Smith stated that her companies' guidelines are so the accounts receivable (AR) runs no more than 18 percent of primary claims and no more than 25 percent of secondary claims past 90 days. She stated she has not done a cost analysis for time, labor, or materials spent while working with MCOs but she has employed three full-time people to deal with the MCOs issues. Her companies' profit margin has gone down 15 to 20 percent since dealing with MCOs.

In response to a question from Representative Jenkins, Ms. Smith stated all five MCOs are doing a bad job at process claims.

In response to questions from Senator Alvarado, Ms. Smith stated her businesses cover practices in Kentucky, Maine, Maryland, Ohio, West Virginia, Missouri and Hawaii. In her experience, Kentucky is having more problems with MCOs because when MCOs were implemented the MCOs were not ready. Ms. Smith stated the biggest issue with MCOs is credentialing. The physicians have the impression that MCOs are slow to get them credentialed because it saves the MCOs money to not pay for services provided while physicians wait for credentialing.

MCOs Billing Processes

Rosmond Jones Dolen, Kentucky Association of Health Plans (KAHP), presented a high level, overview of the claims process by the MCOs. The process is as follows; a provider submits the claim via electronic data interchange (EDI), paper or web portal, validation of Strategic National Implementation Process (SNIP) edits, validation of recipient data, validation of provider data, validation of reference data, validation of Benefit Provider Administration (BPA) rules, prior authorization (PA) if required, perform editing that includes checking for adherence to National Correct Coding Initiative (NCCI) edits and specific state requirements, perform pricing, perform an audit, recognize claim disposition as pay, deny or hold, and finally to send the provider an Explanation of Payment (EOP). Ideally, this would happen in a 30 day period, however Kentucky Department of Insurance (DOI), does not require 100 percent standard on this issue. DOI is aware some claims are being pulled for reviews. She is not aware of any MCOs that are under corrective action with DOI relating to claims processing.

In response to questions from Senator Adams, Ms. Dolen stated the timeframe for the claims process is 30 days. She does not have a specific number of claims the MCOs receive that are considered a clean claim, however millions of claims do get processed.

In response to questions from Representative Benvenuti, Ms. Dolen stated the claims flow process presented has elements of prepayment review, specifically when performing the audit, to make sure claim is priced accurately. The term "clean claim" means a properly completed billing instrument. The claim must be in a nationally accepted Health Insurance Portability and Accountability Act (HIPPA) format, along with standard coding guidelines with no further information, adjustments, or alteration in order to be processed and paid by the health plan. Statutorily prescribed interest will attach if the claim goes beyond 30 days. The rate approaches 21 percent if the claim is over 90 days.

In response to questions from Senator Meredith, Ms. Dolen recommended a conversation between the Senator and individual MCOs about the efforts made to set equal and fair payments for rural providers as opposed to urban providers. She stated she could not speak for the MCOs as to whether they would support a bill that would require payment information be given to the committee. Ms. Dolen recommended discussions between Ms. Smith and the individual MCOs to talk about general issues that may be impacting her claims process. As of June 30, 2017, there have been 204 requests that have been received for 3rd party review. The external independent third party review and administrative hearing appeal process is a free process available to every provider after they exhaust their plan remedies.

In response to questions from Representative Gibbons Prunty, Ms. Dolen stated that MCOs are allowed different criteria for prior authorizations because each of the MCOs has the ability to employ its own medical management tools. She is not sure why MCOs are not non-profit. There is mix of memberships of profit and nonprofit MCOs in Kentucky. She does not identify that as something that needs to change, it is the structure of the companies operating in Kentucky.

In response to questions from Representative Fleming, Ms. Dolen stated any claims paid after 30 days, 12 percent interest is added, after 60 days it goes up to 18 percent, and anything over 90 days is 21 percent. Interest should be added automatically when claims are paid. MCOs have a 95 percent adjudication requirement.

In response to questions from Representative Jenkins, Ms. Dolen stated providers have different contracts with MCOs and the rate for services provided would be negotiated between the provider and the MCOs. A provider has 30 days from receiving the notice of denial to appeal the decision. If the provider disagrees, the appeal can go to the prompt pay appeals process, which involves an independent review entity. After that appeal, the provider can request a state hearing. An individual appeal predates the provider appeal process. She does not know how many fraudulent claims are being discovered by the appeal processes. Fraud, waste, and abuse continue to be a problem. The MCOs have steps and validations to check and recheck to deter fraud, waste, and abuse.

In response to questions from Senator McGarvey, Ms. Dolen stated she could send him the number of children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program. Ms. Dolen responded that she would need to speak with other KAHP members before giving suggestions on further legislation to get MCOs to pay claims properly and on time. She would like to see the conversation be more collaborative and cooperative. KAHP would like to discuss what can be done to help providers who are struggling with billing issues.

MCOs Payment Processing

Mike Downing, President, RSVP Homecare, Kentucky Medical Equipment Supplier Association, stated it frustrating that the coverage guidelines for Durable Medical Equipment and

Supplies (DME), are quite varied. In regards to DME, his company has been asked to follow Medicare guidelines, Medicaid guidelines, and CMS guidelines by the MCOs, however they are all different. He is asking for consistency among the MCOs on the requirements. MCOs use two sets of coverage guidelines, Interqual or Milliman. Both are based on inpatient systems but not as much for DME and home care. He is asked by the MCOs to wait until the request is denied, and then MCOs will tell him what is required. Guidelines are supposed to be posted but they are not or vary between the MCOs. The MCOs may authorize the equipment on the date of service, however their systems are not updated fast enough and the claim is not paid. He does not recall receiving interest payments on unpaid claims. If a claim is adjudicated, it does not mean the claim was paid correctly.

MCOs Billing Procedures

Krista Matlock, Senior Director Payer Contracting, KentuckyOne Health, Kentucky Hospital Association, stated KentuckyOne Health is an integrated healthcare delivery system, it operates in 17 hospitals throughout Kentucky and has approximately 1481 providers including physicians, physician assistants, nurse practitioners, and licensed medical social workers (MSW). She stated 25 percent of the business is Medicaid, however, approximately 75 percent of administrative costs go towards pursing payments from MCOs. KentuckyOne Health has several issues with MCOs such as untimely loading of rates causing untimely payments, non-compliance with the prompt payment law once errors are corrected, loading codes, insuring the code sets are loaded properly, finger-pointing between MCOs and their contractors, and inconsistent interest payments.

Lynn Tanner, Vice President Payer Strategy & Operations, KentuckyOne Health, Kentucky Hospital Association, testified there are added steps involved when adjudicating a claim when an MCOs' outsourced entity is included in the process. Interest payments to providers are not automatic. Payers are making profits in healthcare, not providers.

In response to questions from Representative Gooch, Ms. Tanner stated Medicaid payments generally do not cover costs. Payment depends on regulations and provider services but it may cover 75 to 90 percent of the cost.

In response to questions from Senator Carroll, Deputy Commissioner Cecil stated with each of the new MCOs' contracts, DMS has tried to create better practices and higher compliance standards. MCOs have received letters of concern, corrective action plans, or sanctions. She requested providers make DMS aware if there are providers outside the credentialing requirement. She asked that providers use the appeal processes given so DMS is more aware of the issues. DMS wants to partner with providers and MCOs to create a better system.

Adjournment

There being no further business, the meeting was adjourned at 3:20 PM.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

July 18, 2017

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met Tuesday, July 18, 2017, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Phil Moffett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Phil Moffett, Co-Chair; Senator Rick Girdler; Representatives Larry Brown, Will Coursey, and Steven Rudy.

Guests: Mr. Andrew McNeill, Deputy State Budget and Policy Director, Ms. Katie Smith, Director, Office of Financial Services, Cabinet for Economic Development; Ms. Natalie Brawner, Assistant Director, Real Properties; Ms. Ashley Adams, Financial Analyst, Kentucky Infrastructure Authority; Mr. Ryan Barrow, Executive Director, Office of Financial Management; and Mr. Lewis Diaz, Bond Counsel, Dinsmore & Shohl.

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

Approval of Minutes (June 20, 2017)

A motion was made by Representative Rudy to approve the minutes of the June 20, 2017 meeting. The motion was seconded by Representative Brown and approved by voice vote.

Representative Moffett referenced correspondence from Representative Jim Wayne thanking staff and members for the resolution presented to him at the June 20, 2017 meeting.

Representative Moffett welcomed Ms. Katherine Halloran to the committee as the new Committee Staff Administrator.

Correspondence Items

Ms. Halloran reported one correspondence item from the Finance and Administration Cabinet regarding unexpended debt service to support availability payments required by the Kentucky Communications Network Authority's public-private partnership contract. The biennial budget bill requires the Secretary of the Finance and Administration Cabinet to certify the amount of debt service appropriations not needed to satisfy debt service obligations and report that amount to the committee before funds can be expended for availability payments.

Information Items

Ms. Halloran reported one information item which was comprised of the statutorily required quarterly capital projects status reports provided by the Administrative Office of the Courts; the Commonwealth Office of Technology, as they report separately from the Finance and Administration Cabinet; the Finance and Administration Cabinet; and the universities that manage their own capital construction programs: Eastern Kentucky University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, and Western Kentucky University.

Representative Moffett said that he would like members to consider processes for monitoring public-private partnerships as well as the recent appropriation allocated to Commonwealth Seed Capital. Representative Moffett said that it has been his experience with public-private partnerships in other states that if they are not properly monitored, then things tend to founder for the taxpayers.

Project Report from the Universities

Ms. Halloran reported one equipment purchase in excess of $200,000 for the University of Louisville, which was a computed microtomography (micro-CT) scanner for the Speed School's Industrial Engineering Department. The micro-CT scanner will be the only one on campus used to analyze micro-scale internal structures. No action was required.

Project Report from Finance and Administration Cabinet

Mr. McNeill reported two projects in excess of $600,000 in the Laurel Creek Gorge area of Elliott County on behalf of the Tourism, Arts and Heritage Cabinet/Department of Fish and Wildlife Resources from the Fees-In-Lieu-of (FILO) Stream Mitigation Projects Pool.

$1,223,950 was appropriated for the Mart Whitt Fork project to preserve and restore over 15,300 linear feet of streams and $1,358,592 was appropriated for the Laurel Creek Gorge #2 (Green-Johnson tracts) project to rehabilitate and enhance over 9,200 linear feet of stream. Both projects are funded from a restricted fund (Kentucky Wetland and Stream Mitigation Fund - KRS 150.255). The FILO program is governed by an agreement with the U.S. Army Corps of Engineers. No action was required.

Project Report from the Cabinet for Economic Development

Ms. Smith reported one project in excess of $600,000 for the Office of Entrepreneurship that was approved by the Kentucky Economic Development Finance Authority. This was for a transfer in the amount of $15,000,000 from the High-Tech Investment Pool to the Economic Development Partnership for a capital contribution to Commonwealth Seed Capital. No action was required.

Lease Report from Finance and Administration Cabinet

Ms. Brawner reported one lease modification for the Cabinet for Health and Family Services, PR-5260 - Calloway County. Two quotes for the renovation were received and the low quote of $85,360 was accepted.

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

Reports from the Office of Financial Management

Ms. Adams reported four Kentucky Infrastructure Authority loan requests: Lexington-Fayette Urban County Government - Midland/East Main Sanitary Trunk Sewer Replacement project/Town Branch Commons project's green infrastructure (Fund A -Clean Water State Revolving Fund (CWSRF) - $9,969,585); City of Stanton (Powell County) - Sanitary Sewer Service Area Expansion Phase I project (Fund A - $1,095,462); City of Bowling Green f/b/o Bowling Green Municipal Utilities (Warren County) - Water Treatment Expansion Plant project's engineering costs (Fund C - Governmental Agencies Program Fund - $3,800,000); and City of Stanford (Lincoln County) - Water System Upgrade project (Fund F - Drinking Water State Revolving Fund (DWSRF) - $2,690,000). All are twenty year loans with a 3 percent interest rate for the Fund C loan, a 1.75 percent interest rate for the Fund A loan for Lexington-Fayette Urban County Government, and a .25 percent interest rate for the Fund A and Fund F loans for Powell and Lincoln Counties, respectively.

Representative Rudy made a motion to roll the KIA loans into one vote. The motion was seconded by Representative Brown, and approved by voice vote.

A motion was made by Representative Rudy to approve the KIA loans, seconded by Representative Brown, and approved by unanimous roll call vote.

Mr. Barrow reported two new bond issues. The first bond issue reported was State Property and Buildings Commission (SPBC) Project No. 117; which will be a negotiated General Fund supported transaction in an amount not to exceed $305 million. The taxable revenue bonds (Series A) will fund a $15 million economic development project authorized by the 2017 General Assembly; the tax-exempt revenue bonds (Series B) will finance an additional $100 million of the capital projects authorized by the General Assembly since 2005; the taxable revenue refunding bonds (Series C) will advance refund an existing taxable series and a series that was already advance refunded; and the tax-exempt revenue refunding bonds (Series D). Mr. Barrow said that market conditions will determine if all refunding candidates included in the preliminary amounts for Project No. 117 are included in the upcoming transaction. The estimated net present value savings is $3.5 million for taxable revenue refunding bonds and just under $6 million for the tax-exempt revenue refunding bonds.

Mr. Barrow next reported the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Lincolnshire Portfolio Project), Series 2017, to be issued in an amount not to exceed $13,000,000. The project is comprised of 280 units in Owensboro, Kentucky.

In response to a question from Representative Rudy regarding forgone property tax revenue, Mr. Diaz referenced the distinction between projects in which equity is contributed by for-profit entities, typically to receive tax credits; in which private activity bonds would be issued and projects involving 501(c)(3) non-profit entities, exempt from property taxation, with no equity contribution from for-profit entities; in which qualified 501(c)(3) bonds would be issued. The project under consideration is the former: a facility subject to property taxation that will be financed by tax-exempt private activity bonds. For the latter, KHC facilitates an agreement between the county and the developer in which the developer pays taxes. Mr. Barrow reiterated that this particular transaction is a traditional tax-exempt bond issue and that the project should be subject to property taxation.

Mr. Barrow reported six new School Facilities Construction Commission (SFCC) school district bond issues for Anderson, Boyle, Fleming, Hopkins, Nicholas and Pikeville Counties, for total SFCC annual debt service of $482,656. The bond issues will refund outstanding bonds, finance school construction, and school improvements. There were no local tax increases associated with these projects with the exception of Boyle County, which had a tax increase necessary to fund the construction of the middle school project.

Representative Rudy made a motion to roll the two new bond issues and the SFCC bond issues into one vote. The motion was seconded by Representative Brown, and approved by voice vote.

A motion was made by Representative Brown to approve the two new bond issues and the SFCC bond issues, seconded by Senator Girdler, and approved by unanimous roll call vote.

Mr. Barrow presented one follow-up report for a previously approved bond issue: Kentucky Housing Corporation Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Riverport Family Apartments Project), Series 2017A, $14,500,000; and Series 2017B, $4,900,000. The project, a component of a campus including senior housing and a Family Scholar House, is comprised of 240 units in Louisville, Kentucky. The bond issue was previously approved and no further action was required.

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

Ms. Halloran reported one local school bond issue for Hopkins County. The issue had 100 percent local debt service support, involved no SFCC participation, and required no tax increase. All disclosure information had been filed and no action was required.

Updated Debt Issuance Calendar

Also included in members' folders was the debt issuance calendar. No action was required.

With there being no further business, the meeting was adjourned at 1:20 p.m.

LEGISLATIVE RESEARCH COMMISSION

Subcommittee on 2018-2020 Budget Preparation and Submission
Minutes of the 1st Meeting
of the 2017 Interim

July 10, 2017

Call to Order and Roll Call

The first meeting of the Subcommittee on 2018-2020 Budget Preparation and Submission of the Legislative Research Commission was held on Monday, July 10, 2017, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Steven Rudy, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Steven Rudy, Co-Chair; Senators Ralph Alvarado, David P. Givens, Stan Humphries, Morgan McGarvey, and Max Wise; Representatives Regina Bunch, Ken Fleming, Jody Richards, and James Tipton.

Guests: Janice Tomes, Deputy State Budget Director, Office of State Budget Director (OSBD); and, Kevin Cardwell, Deputy State Budget Director, OSBD.

LRC Staff: John Scott, Jenny Bannister, and Spring Emerson.

Janice Tomes, Deputy State Budget Director, OSBD, and Kevin Cardwell, Deputy State Budget Director, OSBD, presented an overview of the Draft Budget Instructions for the 2018-2020 Fiscal Biennium.

In response to questions from Chair Rudy, Mr. Cardwell said having the agencies work with the OSBD to report contributions on each retirement system by fund source is something that could be considered, although it would not be easy to pull together due to fund source splits among the different retirement systems as well as different contribution rates. Separating the incremental change of the Actuarially Required Contribution (ARC) from the balance of defined calculations will also be considered. The coding for each retirement system can be made readily available and added to the personnel runs. Ms. Tomes added that Necessary Governmental Expenses will be removed from the baseline, as well as one-time programs.

In response to questions from Representative Fleming, Ms. Tomes said agency expenditures are governed by statutes and regulations, and agencies can perform surveys to compare with other state governments. Agencies have guidelines to follow for a strategic plan, as set by the priorities of the administration, which provides an overarching broad direction for policies and how agencies move forward.

Senator Givens said that agencies coming before the budget review subcommittees should provide performance metrics, evaluating past performance and indicating goals for future performance. This should be provided along with the agency budget request.

A motion was made by Senator Wise to direct the co-chairs to work with LRC staff to finalize the 2018-2020 Budget Instructions and formally present them to the LRC for adoption. The motion was seconded by Senator Humphries and passed by roll call vote.

A motion was made by Senator Humphries to direct LRC staff to send out Defined Calculations letters to specific agencies before 2018-2020 Budget Instructions are finalized. The motion was seconded by Senator Alvarado and passed by roll call vote.

There being no further business before the subcommittee, the meeting was adjourned at 1:18 PM.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

June 26, 2017

Call to Order and Roll Call

The 6th meeting of the Public Pension Oversight Board was held on Monday, June 26, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brian Linder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Larry Totten, State President, Kentucky Public Retirees; Jim Carroll, Co-Founder, Kentucky Government Retirees; T.J. Gilpin, Kentucky Association of Transportation Engineers/Kentucky Transportation Employee Association; Joe Baer, President, Kentucky Professional Firefighters; Nicolai Jilek, Kentucky Fraternal Order of Police; Stephanie Winkler, President, Kentucky Education Association; Romanza Johnson, President, Kentucky Retired Teachers Association; Dr. Tom Shelton, Executive Director, Kentucky Association of School Superintendents; Shellie Hampton, Director of Government Relations, Kentucky Association of Counties; Bryanna Carroll, Government Affairs Manager, Kentucky League of Cities; David McFaddin, Eastern Kentucky University Vice President, Office of Engagement, Regional Stewardship and Government Relations; Tony Glisson, Western Kentucky University, Director of Human Resources; Beth Patrick, Morehead State University, Chief Financial Officer and Vice President for Administration; and John Gohmann, Regional President, PNC Bank and Chair of the Kentucky Chamber Pension Task Force.

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

Approval of Minutes

Representative Kay moved that the minutes of the May 22, 2017, meeting be approved. Senator Parrett seconded the motion, and the minutes were approved without objection.

In his opening remarks, Representative Linder stated that Co-Chair Bowen and he thought it necessary to give those most affected by pension reform an opportunity to express their thoughts and ideas on pension reform. The Public Pension Oversight Board (PPOB) has investigated and discussed the many reasons responsible for the great task the Commonwealth is now facing. In the coming months, the PPOB will work from the suggestions of the stakeholders, PFM, the Governor's Office, public pension constituents, and the taxpayers of Kentucky to craft reform legislation that will hopefully set Kentucky's public pensions back on a course of sustainability.

Kentucky Public Retirees

Larry Totten, State President of the Kentucky Public Retirees (KPR), testified that the language contained in the first section of KRS 61.692 has served as the bedrock for public pension policy for decades and has been the foundation for the expectations that retirees and active employees have regarding their pensions. Mr. Totten stated that another element that requires comment is the potential shift to 401(k) accounts becoming the primary retirement savings instrument. If adopted, Mr. Totten would like the participation to be mandatory or an opt-out plan. Also, if new employee retirement contributions are put into personal accounts, funds would no longer be a part of the employee contributions going into Kentucky Retirement System (KRS) and over time would become an increasingly large hole in the funding stream for the current retirement plans. Mr. Totten stated that both PFM Consulting and Milliman appear to be recommending that KRS abandon its current level-percent-of-payroll amortization, which is required by statute, in favor of a level dollar amortization plan. While this will cost considerably more immediately, the unfunded liability is reduced quicker and the overall dollars expended over the amortization period are billions less than with the level-percent-of-payroll method.

On the issue of the County Employees Retirement System's (CERS) separation from KRS, Mr. Totten stated that the Kentucky Public Retirees believe a thorough third-party review of the administrative requirements and actuarial costs of such a split is needed before any action is taken.

Mr. Totten stated that while tax reform may be difficult, it can be constructed from several different areas, such as, raising the sales tax. Based on last year's collections, each penny of the existing sales tax has a value of over $500 million. Any reform must also review the array of tax expenditures that costs the state $12 to $13 billion in revenue each year.

Kentucky Government Retirees

Jim Carroll, Co-Founder of the Kentucky Government Retirees (KGR) testified that KGR is a section 501(c)(5) labor organization and an advocacy group representing 9,700 retired and active KRS members. In the second report, PFM concluded that Kentucky Employees Retirement System (KERS) was in good shape a decade ago with a funding level of nearly 75 percent and that the huge decline in funding was caused mostly by employer underfunding and back loading along with unfunded cost-of-living adjustments (COLA). He stated that PFM actuaries determined that the benefit structure of KRS had no impact at all in the cash crisis. KRS' own actuary did a similar analysis for the years 2008-2014. The primary cause has been underfunding, and benefits were completely irrelevant to driving up liabilities.

KGR believes there are two critical issues relating to pensions. First is the inviolable contract: KGR will strongly oppose any attempt to reduce the benefits of any member of the defined-benefit plans and believes the state has a legal and moral obligation to pay the benefits that have been and will be earned. Second, if a transition into a 401(k) savings plan is considered: KGR has deep concerns about the fiscal impact that such a transition would have to the legacy plans. If a 401(k) plan for new hires is adopted, it will only reduce long-term costs compared to the legacy plans, and the long-term savings will be only incremental compared to the hybrid plan. The hybrid plan reduces employer risk because future benefits in the hybrid plan are not guaranteed and the General Assembly can lower the employer contribution rate at will. Under a 401(k) option, there would be no new contributors putting money into the system.

KGR's position on the CERS separation is the concern of the administrative burden that will be placed on KRS. KRS is experiencing high turnover and is understaffed. KGR would like to see a full accounting of the transition costs including staffing demands.

Mr. Carroll stated in regards to tax reform, it is essential that the General Assembly enact tax reform that provides more revenue to address pensions.

Senator McDaniel asked Mr. Totten and Mr. Carroll if either of them support benefit adjustments for current employees, retirees, and future hires or raising employee contribution rates. Mr. Totten did not think his group would support reducing benefits for retirees, and anything else would have to be discussed. Mr. Carroll stated that the inviolable contract means benefits cannot be altered and sees no basis for increasing employee contributions or cutting benefits for retirees or those under Tier 1 and Tier 2.

Senator McDaniel asked Mr. Totten and Mr. Carroll if they would rather raise taxes or cut government. Mr. Totten responded that he was not a believer that revenue cannot be increased. Mr. Carroll responded that he agreed with Mr. Totten and stated that there are more demands for services and benefits then a capacity to get revenue.

Senator McDaniel asked Mr. Carroll if the entire administrative burden were to go to CERS for the cost of separation would KGR oppose separation. Mr. Carroll responded that the administrative burden that he is talking about deals with the effort KRS staff will have to engage in for the next 4 years.

Senator McDaniel asked Mr. Totten and Mr. Carroll if either of their groups support legalizing medical marijuana or approving casino gaming as a potential revenue source to pay for pension obligations. Mr. Totten and Mr. Carroll said their groups had not discussed the issue.

Representative James Kay commented that he had some possible solutions that could help simplify the investment strategy and cut out expensive Wall Street fees and charges. First, he stated that the PFM Group looked at all systems pooling assets together to leverage better investment deals in the market, and he believes that suggestion should be considered. Second, legislators should switch into the state employee retirement fund to show solidarity with state employees. Third, the cigarette tax should be raised and dedicated to the pension underfunding. Fourth, opioids that come into the state should be taxed and directed to the pension problem, then once the pension system is relieved, directed to treatment options for those battling addiction. Fifth, state employees should be given raises that would increase contributions into the pension obligation without adding unfunded liability. Sixth, state employee pension buyouts should be considered. Also, putting cash generating public assets into the pension fund should be evaluated. Lastly, an innovative policy option to consider is to appropriate money to Kentucky's infrastructure, which would fund local, county and state road projects to help crumbling roads, bridges, and highways, and then match those with pension assets, so the pension system can earn what state employees and state government is paying out to those outside of state government.

Kentucky Association of Transportation Engineers/Kentucky Transportation Employee Association

T.J. Gilpin, from the Kentucky Association of Transportation Engineers (KATE), discussed Governor Bevin's plan to call a special session to address tax reform and pension reform. Mr. Gilpin stated that his group believes that tax reform is the key to making the pension systems solvent again. Kentucky brings in roughly $10 billion in revenue and provides over $12 billion in tax incentives, tax breaks, and tax exemptions each year. More money walks out the door each year than what is brought in as revenue. He said the PFM group estimates that an additional $700 million each year is needed on top of what is already being paid to the pension system.

Mr. Gilpin said his members have concerns over rumors and speculation that their pension benefits may be reduced, suspended, or taken away and that he has advised them to contact their legislators. He discussed a 1995 Kentucky Supreme Court case, *Jones v. Board of Trustees*, and stated the Supreme Court of Kentucky acknowledged that the General Assembly can take no action to reduce the benefits promised to participants and that KERS members have a contractual right to the benefits promised upon retirement.

Senator McDaniel asked if the Kentucky Association of Transportation Engineers/Kentucky Transportation Employee Association supported taxing the sale medical marijuana and/or legalizing gaming. Mr. Gilpin responded that his groups have not discussed those matters and reaffirmed that his group believes that the issue of tax reform is needed.

Kentucky Professional Fire Fighters

Joe Baer, President of the Kentucky Professional Firefighters (KPFF), discussed how most firefighters do not participate in Social Security, and therefore, CERS is their only source of retirement and that a 401(k) would not provide a reasonable monthly income. Those who participate by working a secondary job are penalized under the federal Windfall Elimination Provision. Mr. Baer stated that since the implementation of Tier 3, many fire departments are seeing a decline in the total number of applicants and recruitment and retention have been a problem.

The KPFF supports separation of CERS from KRS. CERS is the only plan under KRS that has always paid their annual required contribution.

Kentucky Fraternal Order of Police

Sherriff Burrell Perdue, President of the Kentucky Fraternal Order of Police (FOP), stated that police officers and deputy sheriffs from all over the state were in attendance because they were concerned about their future pensions. Sheriff Perdue stated their major issues and concerns are the protection of the inviolable contract. Pension changes have made recruitment and retention a problem in Sheriff Perdue's small office of 14 people. All offices, large and small, have gone from having hundreds of applications to a handful, and some have had to alter their requirements in order to get applicants. Sheriff Perdue stated that the FOP is in favor of the CERS separation.

Nicolai Jilek, Louisville Metro Police Officer, said whether it is on the streets, in neighborhoods, courts, jails and prisons, most people would never consider being a police officer. Mr. Jilek stated there was a time that being willing to put your life on the line for a stranger was taken into consideration and that many earned sub-professional wages and benefits with the option of retiring at 20 years. He further stated that the erosion of benefits, which are described by benign terms of Tier 1, Tier 2, and Tier 3, have divided men and women in uniform as they work shoulder to shoulder having the exact same job and duties with very different compensation.

Mr. Jilek stated that Kentucky was recently ranked in a comprehensive national study as one of the worst states to be a police officer. The study organized by Wallethub.com, a reputable financial website, examined all 50 states and the District of Columbia across various dimensions. Overall, Kentucky is in the bottom 5 when it comes to number of officers per capita and last when it comes to state and local police protection expenses per capita. As of 2015, the most recent year with comprehensive statistics, the average starting salary for a Kentucky officer was just over $28,000 with at least 17 agencies that started their officers at $20,000 or less.

Mr. Jilek discussed that various communities across the Commonwealth have seen dramatic upticks in crime, namely in homicides, gun and gang related violence, and the opioid crisis. Kentucky needs to invest properly in front line defenders and first responders, who will inevitably be the ones carrying much of the physical and emotional burden of the government's efforts.

Senator McDaniel asked Mr. Baer and Mr. Perdue if their groups were in support of taxing the sale of medical marijuana. Both groups said they had not discussed the matter.

Budget Director John Chilton wanted to make a clarification that the State Police are under a separate pension system even though some may be members of the FOP.

Representative Miller asked Mr. Jilek if there was a large number of police retirements planned within the next three months. Mr. Jilek answered that retirements had doubled from this time last year.

Kentucky Education Association

Stephanie Winkler, President of the Kentucky Education Association (KEA), noted that KEA represents more than 44,000 active, student, and retired members. The KEA agrees with the board and others that the state is faced with challenges relating to funding status and dedication of revenue to the state's defined benefit pension plans. These retirement benefits provide education employees with post-employment income security that is critical to the growth and maintenance of a well-trained and stable workforce in Kentucky's public schools.

Ms. Winkler stated that CERS is well-funded because the employee and employer participants are legally required to make their contributions and cannot postpone or sidestep those financial obligations.

KEA believes, as in 2010, when they worked in a bi-partisan manner to achieve the shared responsibility plan to help fund retiree health insurance, that it can also be a partner in this work to achieve solutions to pension issues. Solutions are going to take good communication, an open dialogue, paradigm shifts in thinking, and a willingness to compromise for the good of the whole.

KEA is ready and willing to step up to the plate to help make smart and sound financial decisions that will continue to attract and retain high-quality employees for Kentucky public school students.

These employees are doing what is expected of them by dedicating themselves to their work, insuring the educational success to students, and contributing to the future of the Commonwealth. Ms. Winkler stated that employees deserve and have earned the benefits promised to them.

In response to a question from Senator Bowen, Ms. Winkler said KEA did not have an opinion on CERS separation.

Kentucky Retired Teachers Association

Romanza Johnson, President, stated that Kentucky Retired Teachers Association (KRTA) includes over 30,000 retired educators, who continue to serve Kentucky students and families. This year alone, retired educators volunteered more than 946,000 hours across the state by reading in classrooms and filling backpacks with food and supplies for low income students.

Most retired teachers depend on their modest but stable pension to make ends meet because they do not receive Social Security. The average annual pension benefit for a full-time teacher working nearly 30 years is $36,000.

Ms. Johnson stated that it would be a mistake for policymakers to consider switching teachers from defined benefit pension plans to a 401(k) type program. It will harm Kentucky's ability to recruit and retain qualified teachers. Switching from one type of retirement plan to another does not close funding gaps, generates no new money coming into the plan, and does not eliminate underfunding.

Ms. Johnson discussed recommendations moving forward to stay the course and fund the actuarially required contribution (ARC) until the Teachers' Retirement System (TRS) is fully funded and keep TRS as a defined benefit retirement plan to protect taxpayers, teachers, and education.

Kentucky Association of School Superintendents

Dr. Tom Shelton, Executive Director, stated that the Kentucky Association of School Superintendents (KASS) represents the 173 public school superintendents of Kentucky. These school districts include, 42,000 teachers, nearly 8,800 other certified staff (counselors, librarians, and administrators), and nearly 47,000 classified staff members (bus drivers, custodians, food service, office staff, instructional systems, and support program staff).

KASS recognizes and understands the problems of both the underfunded liability and the ongoing cost of the ARC and KASS wants to be a part of the solution and to participate in ongoing conversations. KASS implores the General Assembly to not negatively impact current retirees or their beneficiaries and to not negatively impact the benefits earned and expected by current employees under the inviolable contract.

Some considerations for solving these issues are new revenue via tax reform, aligning state law with the Internal Revenue Code, and/or removing tax exemptions. Further, the legislature should consider shared responsibility between members of the retirement systems, such as recent changes made to the Missouri state plan, and long-term funding of the ARC to develop and/or maintain an actuarially sound system while structural changes are made over time.

Representative Linder asked for the states average tenure of a superintendent before retirement. In response, Mr. Shelton stated the average tenure for a superintendent is less than 4 years. Mr. Shelton explained that this average has been declining every year, and that the issue is being studied by KASS.

Senator McDaniel stated that Mr. Shelton referenced the notion of shared responsibility between members and making certain that the ARC is funded. Senator McDaniel believes the statutory construct for TRS is actually a set percentage of payroll, not an ARC. The percentage of payroll has always been met. He asked Mr. Shelton if he was proposing changing TRS to an ARC-based system like KRS. Mr. Shelton answered he was simply making the recommendation that the system be fully funded.

In response to Senator Bowen, Mr. Shelton stated that KASS has not taken an official position on capping the calculation of a superintendent's pension in order to help enhance a teacher's pension.

Mr. Chilton asked whether some of the assumptions should be changed in the TRS system. Mr. Shelton stated that in his own personal opinion as a former chair and member of the TRS, the actuarial assumptions that have been used are well-tested and properly evaluated and are consistently used in many other major pension systems. As a member of KASS, he believes that revising the actuarial assumptions should be part of the conversation.

Kentucky Association of Counties

Shellie Hampton, Director of Government Relations, stated Kentucky Association of Counties (KACO) once again joins the Kentucky League of Cities (KLC), the Kentucky School Boards Association (KSBA), and the Kentucky Professional Firefighters (KPFF) in voicing continued support of SB 226, championed by Chairman Bowen and 13 other co-sponsors, during the regular session. At this time, KACO remains very supportive of SB 226. The majority of county employees are members of CERS and 2.5 out of 10 KACO affiliates are Kentucky Employees Retirement System (KERS) members. KACO has a vested interest in both systems. Ms. Hampton stated it should be noted that their legislative committee unanimously voted to support the inviolable contract over and above separation. KACO wants separation of CERS, but not at the expense of the inviolable contract. The inviolable contract, as it exists with Tier 1 and Tier 2 employees, has a finite number of members at this time and eventually will cease to exist.

Kentucky League of Cities

Bryanna Carroll, Government Affairs Manager, for the Kentucky League of Cities (KLC) and KLC Board member Wayne Turner, Bellevue Police Chief testified regarding their recommendations. Ms. Carroll stated that she wanted to restate KLC's unwavering support for the separation of CERS. She stated the list of other groups that are supportive of the measure including: KACO, KSBA, Kentucky Professional Firefighters Association, Kentucky Association of Chiefs of Police, FOP, Kentucky Magistrates and Commissioners Association, Kentucky County Judge Executive Association, Kentucky Sheriff's Association, Kentucky Association Circuit Court Clerks, Kentucky Corners Association, Kentucky Jailors Association, Kentucky Black Caucus of Local Elected Officials Association, Kentucky City County Management Association, Kentucky County Clerks Association, Kentucky Government Finance Officers Association, Kentucky Municipal Clerks Association, Kentucky Occupational License Association, Kentucky Recreation and Park Society, Municipal Attorneys Association of Kentucky, and the Kentucky Association of Fire Chiefs.

Ms. Carroll explained that CERS is 62 percent funded and the remaining KRS plans, the State Police Retirement System (SPRS) and KERS, are 24 percent funded. CERS has 73 percent of the assets and covers 63 percent of the administrative cost of KRS. Since the passage of SB 2 in 2013, CERS has a higher funding ratio.

In response to Senator Schroder, Ms. Carroll stated that if CERS were to fail after separation, the contract does not change, and CERS would be responsible for any liability.

Senator McDaniel asked KACO and KLC if they were fine with any administrative costs of separation being completely born by the CERS system. Ms. Hamilton stated KACO has not discussed this issue. Ms. Carroll stated KLC is fine paying their fair portion.

Senator McDaniel asked what would prevent the KRS Board from voting to combine the assets of all plans. Ms. Hamilton stated that would be a huge cause for concern, and KACO would seek legal counsel. Ms. Carroll stated she believed there is nothing to prevent KRS from combining assets and that there already are investments that are commingled.

John Chilton stated that it was his understanding that funds are not commingled, that sometimes similar investments are made to achieve a break in the investment fee and take advantage of economy of scale, but the funds have been and always will be separate.

Representative Fleming and Mr. Chilton separately inquired about the relative importance of salary or benefits in the attraction of new talent. Mr. Chilton cited the PFM finding that with the combination of both salary and benefits, Kentucky employees are better compensated that private sector employees. Mr. Chilton asked the panel if given a choice, would they recommend increasing salaries or increasing benefits. Ms. Carroll stated that KLC is not completely opposed to a 401(k) plan, but that such a plan should provide an opt-out for mayors.

Senator Bowen made the statement that, in his argument for the separation of CERS, KRS would benefit just as much as CERS.

University Employers

David McFadden, Eastern Kentucky University Vice President, Office of Engagement, Regional Stewardship and Government Relations, stated that only the comprehensive universities and Kentucky Community and Technical College System (KCTCS) participate in KRS. The comprehensive universities include Eastern Kentucky University, Western Kentucky University, Northern Kentucky University, Morehead University, Murray University, KCTCS, and Kentucky State University. Mr. McFadden stated that his group represents the only agencies that do not have a line item in the budget bill for their pension obligation. Those obligations are born by the institutions, which then have to resolve those payments to KRS on a regular basis.

In 2007/2008, the gross tuition and fee revenue was 57 percent and the net general fund appropriations was 43 percent. In 2015/2016, the gross tuition and fee revenue was 71 percent and the net general fund appropriation was 29 percent. The professional staff and faculty are in the Teachers' Retirement System (TRS), and the non-exempt/hourly employees participate in KERS. From 2008 to 2016, there was exponential growth in the employer contributions for both of those systems, topping at nearly $90 million by 2016. Meanwhile, the net general fund appropriation continued to erode. The cumulative net impact in 2016 was nearly $145 million. Mr. McFadden stated that 28 percent of their total budget is committed to pension obligations.

Tony Glisson, Western Kentucky University, Director of Human Resources, discussed how the 49.47 (as of July 1, 2017) percentage of pension contribution along with the health contributions, life insurance, plus miscellaneous benefits totals nearly 76 percent to 80 percent of salary, which is not sustainable to the organizations.

Beth Patrick, Morehead State University, Chief Financial Officer and Vice President for Administration, stated that trying to set a budget moving forward with the growth seen in this expenditure category was nearly impossible. The unpredictability of the growth layered on top of the reductions seen in state appropriations has made it almost unsustainable as an institution to be able to accommodate these benefits.

Representative Linder asked when a professor takes a sabbatical do they continue to receive benefits. Ms. Patrick answered yes.

Representative Linder asked what percentage of the faculties at all institutions are on sabbatical. Mr. McFadden answered that it is a very small percentage and for those that are participating in TRS (except Northern KY University), the institutions are moving those positions to the optional 403(b) plan. The ratio is about 50/50 and declining between those who choose to be in TRS and those who are choosing the optional retirement or the 403(b) path.

Mac Jefferson asked in regards to KRS and the lack of payroll growth, has there been any data provided that would help quantify the scale of the outsourcing in the universities. Ms. Patrick stated that such a study had not been done, but the information could be provided.

In response to a question from John Chilton, Mr. McFadden stated that exempt staff (bachelor's degree or higher) must participate in KERS. Those who can choose between TRS and the 403(b) are about 50/50, but it continues to decline with more people choosing the optional retirement plan.

Kentucky Chamber of Commerce

John Gohmann, Regional President, PNC Bank and Chair of the Kentucky Chamber Pension Task Force, stated that the Kentucky Chamber has been speaking out publicly about the state's public pension challenges for more than ten years. During that time a number of reports and legislative testimony have been produced highlighting the negative impact of rising benefit costs on other important areas of state spending, especially education. Further, these past reports advocate changes to make the retirement systems more sustainable.

With the business community paying a significant amount of taxes in Kentucky, the growing pension debt and financial uncertainty is not good for business. Not only does the crisis take away needed dollars from education, transportation, and economic development, it provides less of an attractive environment in which to operate.

For the Chamber, the general view is public retirement benefits should reflect those available in the private sector as much as possible. Private sector employees primarily depend on 401(k) plans and Social Security and must work longer than public employees before retiring.

The Chamber believes the best way to develop a clear and certain path forward is through a combination of additional financial investments in the retirement system and benefit changes that are legally sustainable.

The Chamber also agrees with the Governor that additional revenue will be required to meet the Commonwealth's financial obligations, both for pensions and other important areas such as education funding. Kentucky needs to focus on a tax system that improves competitive position and provides for growth in revenue.

In response to questions from Senator McDaniel, Mr. Gohmann answered that the Chamber has no position on legalizing medical marijuana at this point and gaming has not been discussed for some time and not in relation to the pension situation. When discussing more revenue towards pensions, it was their understanding that it was the Governor's plan to combine both the pension conversation with tax conversations and, because of that, it is a function of the new tax plan that will be proposed as to what the pension resources will be. In the big picture, the Chamber wants Kentucky to be a viable place to do business. With that goal in sight, the Chamber does not want to advocate for pension reform that cripples other areas of the economy.

Public Comment

Ron Richmond, American Federation of State, Municipal, and County Employees (AFSCME), stated he represents over 6,000 members and that the organization represents teacher assistants, diet and nutrition workers, sanitation workers, correctional officers, zoo keepers, revenue clerks, auditors, and library workers.

AFSCME includes current and retired employees who took public positions because of the promise of retirement security through a pension. Many jobs are not high paying and many have to work second and third jobs to support their families. AFSCME is dedicated to public-sector employment because there is a future with a retirement that they have contributed to throughout their careers.

These pensions ultimately ensure that they will remain productive members of society after retirement. AFSCME has no control over the decision of their elected officials to fund or divert funds earmarked for the pension system. AFSCME looks to their elected officials to keep the promise to those who have dedicated their lives to the public.

Julie E. Johnson, Vice President, Kentucky Association of State Employees stated that she is a current state employee with over 24 years of service in state government and she is representing both current and retired members. As state employees, these members have paid into their pension with every paycheck and have kept their part of the contract. It is up to the legislature to keep their part of the inviolable contract.

Tax reform will be critical because KERS must have more revenue to avoid insolvency. Creating a 4TH Tier by putting new employees in a 401(k) plan will starve the current legacy plans, and KERS cannot afford this when it is only 13 percent funded. The Commonwealth will have to pay more because of the years of underfunding. Ms. Johnson stated that a dedicated funding stream is needed to provide the funding that is critical to paying the unfunded liabilities and sustaining the growth of the KERS pension plan.

Senator Schroder asked the groups that testified to offer their suggestions and solutions to the board.

With no further business, the meeting was adjourned. The next scheduled meeting is Monday, July 31, 2017.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

August 4, 2017

Call to Order and Roll Call

The 6th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Friday, August 4, 2017, at 1:00 PM, 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 Stephen Meredith and Dennis Parrett; Representatives Phillip Pratt and Brandon Reed.

Guests: Bill McCloskey, Deputy Executive Director, Governor's Office of Agricultural Policy and Beth Herbert Mobley, Director of Loan Programs, Governor's Office of Agricultural Policy.

LRC Staff: Tanya Monsanto and Kelly Ludwig, and Rachel Hartley, Committee Assistant.

Governor's Office of Agricultural Policy Report

Bill McCloskey described the Agricultural Development Board's approved projects and future projects under the program. Mr. McCloskey highlighted programs including County Agricultural Investment Program, Deceased Farm Animal Removal Program, and Shared-use equipment.

Mr. Closkey stated Trigg and Campbell County are requesting additional funds of $48, 403 and $20, 237 respectively. Henry County requested an additional $35,000; however, the funding will be used for other projects.

The projects discussed were:

Taylor County Cattlemen's Association, Inc. was approved for $10,000 for its beef and dairy heifer chain program.

Monreo County Extension District Board was approved for $56,297 for a certified test kitchen.

Kentucky Agricultural Finance Corporation (KAFC)

Mr. McCloskey stated there are benefits to farmers using KAFC loan programs. There is a fixed rate of 2.75% with no prepayment penalty. The application originates at the lender, and they will forward KAFC their portion.

The loan programs discussed were:

Agricultural Infrastucture will provide access to below market financing for the acquisition, renovation, and construction of agricultural structures.

Agricultural Processing will provide loan opportunities to individuals and companies interested in adding value to Kentucky grown or raised agricultural commodities.

Beginning Farmer will assist individuals with farming experience to establish, expand, or buy into a farming operation. The applicant must develop a business plan and cannot have owned a farm longer than 10 years.

Diversification through Entrepreneurship in Agribusiness will assist entry level entrepreneurs to establish or purchase into a business that provides agricultural products or services.

Large/Food Animal Vet will assist individuals to construct, expand, equip, or buy into a veterinary practice that services farm animals.

In response to a question from Senator Parrett, Mr. McCloskey stated three loans have been submitted to KAFC to date.

Beth Herbert Mobley provided a breakdown of their loan programs. Poultry and turkey comprise 42 percent of the total loan balance.

Tobacco Settlement Scam

The Attorney General, Andy Beshear, is warning against a scam that claims Kentuckians can receive tax-free monthly payments from the Tobacco Master Settlement Agreement.

The next meeting of the Tobacco Agreement Oversight Committee will be September 6, 2017. Documents distributed during the meeting are available in the LRC Library. There being no further business, the meeting was adjourned.

2018 Prefiled Bills

BR1 - Representative Jerry Miller
(8/16/2017)

AN ACT relating to the overtaking of bicycles on a roadway.

Amend KRS 189.300 to provide that the operator of any vehicle moving upon a highway is to keep to the right unless signage or markings indicate otherwise; amend KRS 189.340 to require vehicles overtaking bicycles to pass at a distance of at least three feet; provide that if there not a minimum distance of three feet available, the passing vehicle is to use reasonable caution; specify when a motor vehicle may pass a bicycle to the left of the center of a roadway.

(Prefiled by the sponsor(s).)

BR2 - Representative Diane St. Onge
(6/5/2017)

AN ACT relating to public safety.

Amend KRS 446.010 to define "unmanned aircraft system"; create a new section of KRS Chapter 500 to prescribe permitted and prohibited uses of drones; provide exceptions; prohibit use of evidence obtained by a drone in violation of stated prohibitions; authorize that section to be cited as the "Citizens' Freedom from Unwarranted Surveillance Act"; create a new section of KRS Chapter 501 to clarify criminal liability for offenses committed using a drone; create a new section of KRS Chapter 525 to create the offense of obstructing an emergency responder.

(Prefiled by the sponsor(s).)

BR14 - Representative Tom Burch
(6/22/2017)

AN ACT relating to the reporting of child abuse, neglect, or dependency.

Amend KRS 620.030 to establish that if a person knows or has reasonable cause to believe that a child is dependent, neglected, or abused, causes an oral or written report of the dependency, neglect, or abuse to be made, is employed by a local law enforcement agency, the Department of Kentucky State Police, the cabinet or its designated representative, the Commonwealth's attorney, or a county attorney, then that person shall make the oral or written report to his or her employer and to one of the other entities authorized to receive the report.

(Prefiled by the sponsor(s).)

BR15 - Representative Jim Wayne, Representative Tom Burch, Representative Jeffery Donohue, Representative Joni Jenkins, Representative Mary Lou Marzian, Representative Reginald Meeks, Representative Attica Scott
(7/13/2017)

AN ACT relating to taxation.

Amend KRS 140.130 to decouple from changes to the federal estate tax since 2003; amend KRS 141.010 to provide for a reduction and phase-out of the pension exclusion, disallow the domestic production activities deduction, establish a cap for itemized deductions, and define "taxpayer"; amend KRS 141.020 to provide for changes to income tax rates; amend KRS 141.066 to make a technical correction; amend KRS 141.0205 to recognize and order changes in income tax credits; amend KRS 141.0401 to lower the exclusion threshold; amend KRS 141.120 to change apportionment methods to use a "throwback" rule and market-based sourcing for receipts; amend KRS 141.200 to require "combined" reporting for corporations; amend KRS 134.810, 136.310, 136.530, 141.040, 141.121, 141.206, and 141.420 to conform; amend KRS 141.205 to recognize "tax haven" foreign countries and tax all income apportioned or allocated to those countries; amend KRS 141.383, 148.544, and 148.546 to make the film industry tax credit nonrefundable and nontransferable; create a new section of KRS 6.905 to 6.935 to require review and sunset of all economic development tax credits; amend KRS 131.190 to allow LRC employees to review selected tax documents; amend KRS 138.270 to reduce motor fuels dealer compensation to one percent; amend KRS 132.020 to make the real property tax rate 12.2 cents per $100, remove the rate adjustment provision, and remove the recall provisions; amend KRS 132.260 to clarify requirements for reporting of rental space for mobile or manufactured homes, private aircraft, and certain boats or vessels; amend KRS 132.730, 132.751, 132.810, and 132.815 to clarify property tax treatment of manufactured homes; amend KRS 140.300 to clarify the treatment of agricultural valuation on inherited property; amend KRS 279.200, 279.530, 279.220, and 139.530 to repeal rural electric and telephone co-op taxes; amend KRS 132.097 and 132.099 to amend the exemption for personal property shipped out of state; amend KRS 139.105, 139.200, 139.220, 139.270, 139.340 and 139.740 to impose sales tax on selected services; create a new section of KRS Chapter 141 to provide for a refundable Kentucky earned income tax credit; amend KRS 243.0305 and 243.990 to recognize changes in the distilled spirits case tax; amend KRS 138.130, 138.140, and 138.143 to change the tax on cigarette rolling papers, to raise the tobacco taxes, to impose a floor stock tax, and to tax e-cigarettes; amend KRS 65.125, 65.674, 67.862, 67.938, 67A.843, 68.245, 68.248, 82.095, 97.590, 132.0225, 132.023, 132.024, 132.027, 132.029, 157.440, 160.470, 160.473, 67C.147, 78.530, 342.340, and 134.810 to remove provisions that allow for recall of certain tax rates and make conforming and technical changes; create a new section of KRS Chapter 141 to provide for a refundable noise mitigation credit; repeal KRS 132.017, 132.018, 132.025, 132.720, 143A.035, and 243.710, relating to recall petitions and to various tax rates; provide that estate tax provisions apply for deaths occurring on or after August 1, 2018, sales tax provisions are effective for periods beginning on or after October 1, 2018, motor fuels compensation provisions are effective August 1, 2018, and property tax provisions are for assessments on and after January 1, 2019.

(Prefiled by the sponsor(s).)

BR25 - Representative Jeffery Donohue
(8/14/2017)

AN ACT relating to death in the line of duty benefits and declaring an emergency.

Amend KRS 16.601 and 61.621 to increase minimum death benefits payable to the surviving spouse of a member of the state-administered retirement systems from 25% to 50% of the deceased member's final rate of pay if the member died as a result of an act occurring in the line of duty; amend KRS 61.542 to provide that the surviving spouse shall supersede all previously designated beneficiaries in the case of line-of-duty death benefits payable from the systems administered by the Kentucky Retirement Systems unless the member files a valid beneficiary designation form after marriage to his or her spouse; provide that eligible surviving spouses of members who died in the line of duty prior to the effective date of the Act shall receive the increased line of duty death benefits; provide that a surviving spouse of a hazardous duty member who died as a result of an act occurring in the line of duty on or after January 1, 2017, who was ineligible for the minimum monthly death benefits because he or she was not named

beneficiary shall be eligible for the benefits provided by this Act; EMERGENCY.
(Prefiled by the sponsor(s).)

BR38 - Senator John Schickel
(5/15/2017)

AN ACT relating to Kentucky school bus drivers.
Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."
(Prefiled by the sponsor(s).)

BR39 - Representative Sal Santoro
(5/16/2017)

AN ACT relating to Kentucky school bus drivers.
Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."
(Prefiled by the sponsor(s).)

BR40 - Representative Kenny Imes
(6/27/2017)

AN ACT proposing to amend Section 29 of the Constitution of Kentucky relating to administrative regulations.
Propose to amend Section 29 of the Constitution of Kentucky to permit the General Assembly or an agency or committee it creates to review, approve, or disapprove any administrative regulation of the executive branch during or between regular sessions of the General Assembly; submit to the voters for approval or disapproval; supply ballot language.
(Prefiled by the sponsor(s).)

BR41 - Representative Kenny Imes
(6/6/2017)

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.
Propose to amend Section 95 of the Constitution of Kentucky to hold the election of the Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, and Commissioner of Agriculture, Labor and Statistics in even-numbered years, every four years, beginning in 2024; provide transitional calendar; submit to the voters for ratification or rejection; provide ballot language.
(Prefiled by the sponsor(s).)

BR54 - Representative Jeffery Donohue
(6/8/2017)

AN ACT relating to railroads.
Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.
(Prefiled by the sponsor(s).)

BR64 - Senator Johnny Ray Turner
(6/1/2017)

AN ACT relating to vacating convictions for reckless homicide.
Amend KRS 431.073 to allow convictions for reckless homicide to be vacated and expunged if the offender has first been granted a partial pardon by the Governor.
(Prefiled by the sponsor(s).)

BR91 - Representative Regina Bunch
(7/25/2017)

AN ACT relating to suicide prevention training.
Amend KRS 156.095 to require two hours of in-person suicide prevention professional development training every other school year for middle and high school principals, guidance counselors, and teachers; require a newly hired staff member to receive a packet of information on suicide prevention when the person is hired in a year training is not provided; amend KRS 158.070 to delete requirement for two hours of self-study review for suicide prevention training.
(Prefiled by the sponsor(s).)

BR97 - Representative George Brown Jr
(7/12/2017)

AN ACT relating to criminal histories of job applicants.
Create a new section of KRS Chapter 344 to prohibit employers from considering or requiring disclosure of prior criminal history as part of the initial job application; title the Act "Ban the Box - The Criminal Record Employment Discrimination Act."
(Prefiled by the sponsor(s).)

BR102 - Representative Suzanne Miles, Representative Jason Nemes
(6/29/2017)

AN ACT relating to the natural resources severance and processing tax.
Amend KRS 143A.010 to amend the definition of "processing" to include the act of loading or unloading limestone that has not otherwise been severed or treated in the Commonwealth; amend KRS 143A.035 to allow a credit for substantially identical severance or processing taxes paid to another state or political subdivision thereof; provide that no taxpayer may claim a total amount of credit that exceeds his or her tax liability; allow the Department of Revenue to report tax credit information to the Legislative Research Commission; amend other sections to conform; EFFECTIVE August 1, 2018.
(Prefiled by the sponsor(s).)

BR114 - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette
(6/30/2017)

AN ACT relating to the Public Service Commission.
Create a new section of KRS Chapter 278 to require the Public Service Commission to reconsider previously issued orders that involve multistate transactions if the orders involve a multistate transaction that requires approval from another state public utility commission and the out-of-state public utility commission fails to approve the transaction or utility plan; require the Public Service Commission to review its previous order and determine whether the order is still in the public interest of Kentucky ratepayers; provide that the provisions of this Act shall apply retroactively to all Public Service Commission orders issued on or after July 1, 2013.
(Prefiled by the sponsor(s).)

BR115 - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette
(6/30/2017)

Direct the Public Service Commission to reexamine the electric rates charged to certain ratepayers to determine if they remain fair, just, and reasonable.
(Prefiled by the sponsor(s).)

BR165 - Representative Jim Wayne
(8/8/2017)

AN ACT relating to firearms.
Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.
(Prefiled by the sponsor(s).)

BR182 - Representative Rick Nelson
(8/17/2017)

AN ACT relating to electric utility billing.
Create a new section of KRS Chapter 278 to place a cap on the amount that

an electric utility can bill for a basic service charge.
(Prefiled by the sponsor(s).)

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* - denotes primary sponsorship of BRs

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states, including Illinois and Ohio. The reaction came from co-chair Westerfield after DiLoreto said that Marsy's Law, which requires a constitutional change, could negatively affect criminal defendants.

"There is absolutely nothing in Marsy's Law that stamps the accused as guilty," said Westerfield, who, along with Rep. Benvenuti, attempted to pass Marsy's Law in Kentucky last session. "There's nothing in Marsy's Law that tramples on, or even could be argued as indirectly trampling on, the presumption of innocence… It does however create rights for victims in our constitution where they don't currently exist," he said.

Westerfield said there are courts where victims aren't valued, and he believes they should be.

Victims should be "afforded a small number of procedural, common sense, no-duh rights," he said.

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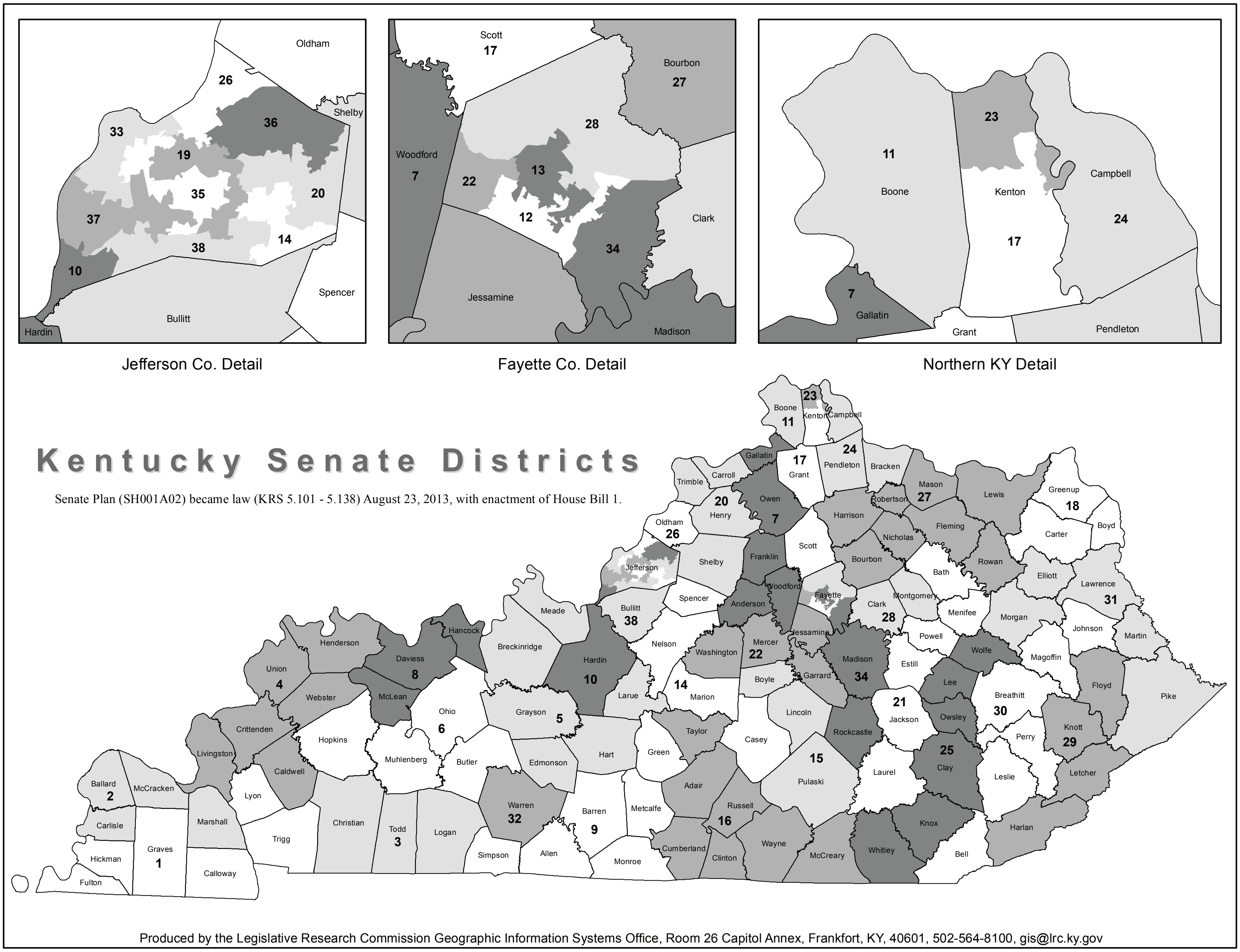
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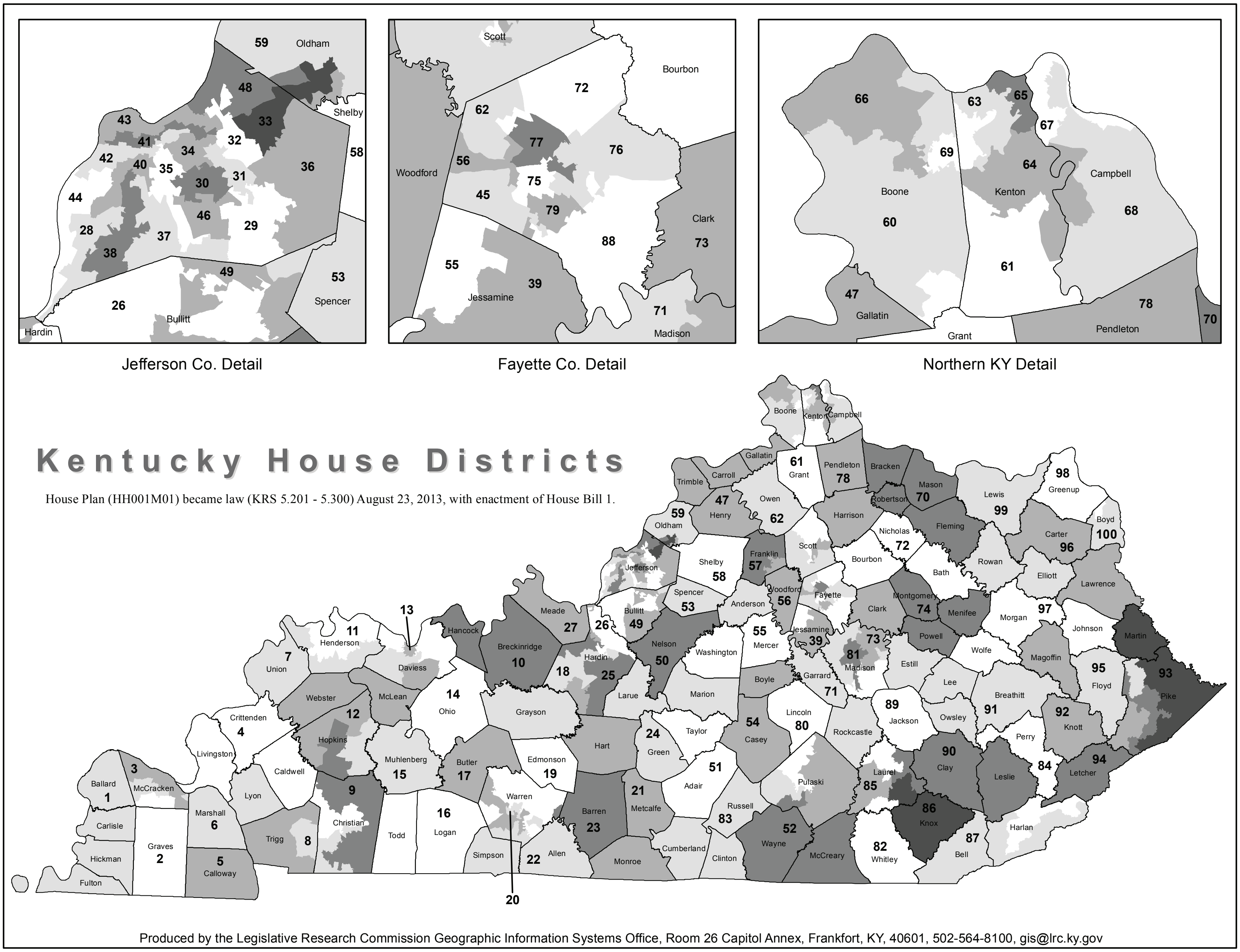
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2017 Interim
LEGISLATIVE
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