



2018

INTERIM RECORD

August

A SUMMARY OF INTERIM ACTIVITIES

Volume 31, No. 4

PUBLISHED BY
LEGISLATIVE RESEARCH COMMISSION
WWW.LRC.KY.GOV/LEGISLATION.HTM

State's water needs discussed

by Rebecca Hanchett
LRC Public Information

FRANKFORT—Kentucky has billions of dollars in wastewater and drinking water infrastructure needs, with some state lawmakers eager to find new ways to meet them.

Interim Joint Committee on Natural Resources and Energy co-chair Rep. Jim Gooch, R-Providence, told Energy and Environment Cabinet officials testifying before the committee on August 6 that some parts of the state have water infrastructure dating back to the Works Progress Administration of the late 1930s.

"Most cities don't have the money to make those kinds of investments anymore," said Gooch, even though water lines regularly break and need repair. "Those kinds of things are problems that we need to address, and they need help."

He agreed with Deputy Cabinet Secretary Bruce Scott and Division of Water Director Peter Goodmann that local governments need funding to meet their water infrastructure needs. The source of the funding, said Gooch, is "something we definitely ought to look at."

Investment in Kentucky's drinking water infrastructure would be the most costly according to Goodmann, who estimated the cost of needed statewide investment at \$8.2 billion

Continued on page 2

VA suicide prevention initiatives reviewed by panel

by Jim Hannah
LRC Public Information

FRANKFORT – An average of 20 veterans kill themselves every day.

That was a statistic federal and state veteran affairs officials kept coming back to while testifying about suicide prevention programs available to Kentucky's 300,000 veterans at the Aug. 13 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection.

"Within our veterans' community, there has been a recognized problem with young men and women coming home from serving ... and then finding themselves drifting outside of the military," said Rep. Tim Moore, R-Elizabethtown, who co-chaired the committee. "This is an issue important to all of us."

Lexington Veterans Affairs Suicide Prevention Case Manager Becky Stinsky testified that on average 70 percent of veterans who kill themselves are not seeking treatment through the VA health care system. She told legislators that she conducts suicide prevention training in the community, including companies that employ large numbers of veterans, to try to reach that 70 percent.

Kentucky Department of Veterans Affairs Deputy Commissioner Heather French Henry testified that her department collaborates closely with the VA.



Interim Joint Committee on Veterans, Military Affairs and Public Protection Co-Chair Rep. Tim Moore, R-Elizabethtown, fields questions during the Aug. 13 meeting.

"If you would have told me 18 years ago that the VA would be offering things like acupuncture, tai chi and yoga, I would have said there probably is never going to be a chance," Henry said. "But now every VA hospital really is a specialty care facility when it comes to mental health, behavioral health. They do offer some of these more nontraditional ways to address mental health."

Rep. Dean Schamore, D-Hardinsburg, asked how long, on average, it takes a veteran to qualify for VA health care benefits if they

Continued on page 2

Water,

from page 1

over the next 20 years. Wastewater infrastructure investment runs a close second at \$6.2 billion over the next 20 years, he said.

Also needed is \$100 million for work on the state's dams "in the near-term" based on the state's 2014 Dam Safety Mitigation Plan, Goodman told the committee. He was backed up by Scott, who told the committee that water and sewer infrastructure cannot be overlooked indefinitely.

"We have to make an investment. We can't not make an investment in water and sewer," said Scott. The outcome would be to be "reactive"—waiting until a major infrastructure failure occurs before some action is taken.

Possible funding options for infrastructure, Scott said, include federal sources like Kentucky Infrastructure Authority loans, Community Development Block Grant (CDBG) funds, Appalachian Regional Commission grants and Abandoned Mine Land grants. State sources may include state general funds, tobacco settlement funds, or coal severance funds. Local funding

and private funding—through a P3 partnership, perhaps—are other possibilities, Bruce said.

Rep. Reginald Meeks, D-Louisville, asked Scott and Goodman about the Cabinet's view of Louisville Metro's sewer utility MSD, or the Metropolitan Sewer District, which Meeks said has had some "serious issues."

"It is in our interest that the small communities be served, period," Meeks said, but the state's view of MSD, he said, is also of interest.

Scott said the state has the authority to deal with an issue if "demonstrative progress" is not being made. "The question becomes what constitutes demonstrative progress?" he said.

Two unforeseen sewer collapses in Louisville have raised the question of whether the collapses "negatively impact Jefferson County's ability to manage its sewage, stormwater or not," said Scott.

"That's something we have to talk with them about and see whether or not that's something we have to get involved (with) in terms of mandates," he told lawmakers.



Rep. Reginald Meeks, D-Louisville, asks about the state's view of Louisville Metro's sewer utility known as MSD, or the Metropolitan Sewer District, during the Interim Joint Committee on Natural Resources and Energy meeting in August.

Veterans,

from page 1

have suicidal thoughts.

"If anyone (with suicidal thoughts) contacts the VA, whether they are eligible or not, we are going to care for them," said Lexington VA Suicide Prevention Coordinator Rebecca Willis-Nichols, who also testified before the committee.

She said the process to apply for VA health care benefits has become "much leaner" and easier in recent years. It can be done online, via mail or in person by filling out a 10-minute form, she said.

Schamore then asked what happens to suicidal veterans that do not qualify for VA health care benefits.

"For those veterans, we are going to care for them acutely and make sure they are safe," Willis-Nichols said. "We are then going to talk to them about community resources, whether it is their comp care, whether it is contacting their health insurance to get them access that way, or looking at free resources."

Sen. Perry B. Clark, D-Louisville, asked what percent of veterans utilize VA health care. Henry said it was only 9 percent.

"Unfortunately, there are going to be a per-

"For those veterans, we are going to care for them acutely and make sure they are safe."

Rebecca Willis-Nichols
Lexington VA Suicide Prevention Coordinator

centage that do not want to use the VA," she said. "There might still be a misperception that it is a second-rate health care system. But I will tell you, as one whose dad gets excellent health care at the VA, it is a top-rate health care institution – the only national health care system we got. They do extremely great research and health care work."

Rep. Jim DuPlessis, R-Elizabethtown, asked the officials testifying if they had insight on why female veterans are two-and-a-half times more likely to kill themselves than female civilians.

Henry said she is working hard to make her department less male centric so women get proper recognition and care. Willis-Nichols added that VA health care had historically been

such a male-dominated system that women simply didn't get the support they needed.

Stinsky theorized that it was because female veterans are more likely to have access to a gun than female civilians. She added that female civilians are more likely to use pills or other methods that are less lethal than firearms.

"I really just want to emphasize that time and distance between someone in crisis and the means in which they can kill themselves makes all the difference," Stinsky said. "That time and distance is a protecting factor."

She added that VA health care offers gunlocks to all its patients with no questions asked.

"We don't put your name on a list," Stinsky said. "We give them free of charge."

Panel eyes state bridge improvement plans

by Jim Hannah
LRC Public Information

FRANKFORT – Kentucky transportation officials plan to spend \$700 million to repair or replace 1,000 bridges in six years despite forecasting stagnant growth in the road fund – the pot of money used to pay for transportation projects.

“It is one of the most aggressive bridge rehab and replacement programs in the country,” said Royce Meredith, the Kentucky Transportation Cabinet official who testified about the initiative during the Aug. 6 meeting of the Interim Joint Committee on Transportation. “These are critical structures that affect every Kentuckian.”

Named Bridging Kentucky, the initiative will allow transportation officials to tackle more than three times as many bridge projects as years past. There is \$340 million earmarked for nearly 350 bridges in the state’s current biennium, or two-year, budget that started on July 1.

“This program is large and broad,” Meredith said. “It includes structures in all of Kentucky’s 120 counties with a mix of bridges in rural and urban areas. This is a program that affects all parts of the state and impacts almost every driver that uses our roads.”

State transportation officials, highway engineers and consultants are currently screening Kentucky’s more than 14,000 bridges using detailed analytics and calculations for the life-cycle costs of rehabilitation verse replacement. Meredith said the evaluations should be completed this month. It will be followed by a series of industry forums this fall with bridge builders.

“We’re not going to rehab a bridge that should be replaced, and we’re not going to replace a bridge that should be rehabbed,” Meredith said. “Right now it appears about 30 percent of these bridges can be rehabbed.”

He said the bridge construction projects are being prioritized based on budget, construction of structure and project challenges.

Rep. Steve Riggs, D-Louisville, asked why the number of vehicles that cross each bridge isn’t being considered in the prioritization process if the cabinet is using a data-driven system.

“If there are 130 vehicles a day using the structure verse 13 vehicles a day, the one with 130 should be prioritized,” he said, “but you don’t list the number of vehicles that use the bridge as a factor.”

Meredith said the number of vehicles is among the multitude of factors being considered that was not highlighted in the slide presentation shown to the committee.

Sen. Brandon Smith, R-Hazard, said there are bridges in eastern Kentucky that cannot handle the weight of a loaded school bus. He said the children literally have to get off school buses and walk across some bridges before the buses can cross the spans. He added that those bridges should be prioritized even if they have a low number of vehicles that cross them.

“That’s just good common sense,” Smith said.

Sen. C.B. Embry Jr., R-Morgantown, echoed Smith’s comment. He said his district has a substandard bridge that provides access to four homes.

“They need that bridge available, not only to get out, but so emergency vehicles can get to them,” Embry said. “The traffic on that bridge will always be very low but it is still important that bridge is fixed – even if the traffic count isn’t very high.”

Rep. Robert Goforth, R-East Bernstadt, asked where one could find a complete list of bridges

“We’re not going to rehab a bridge that should be replaced, and we’re not going to replace a bridge that should be rehabbed.”

Royce Meredith
Kentucky
Transportation Cabinet

Continued on page 38

Lawmakers review health of thoroughbred industry

by Jim Hannah
LRC Public Information

HENDERSON – The new owner of Ellis Park thoroughbred racetrack committed to keeping open one of Kentucky’s historic racecourses while testifying before a legislative panel earlier this summer.

Saratoga Casino and Hospitality Group (SCHG) President Dan Gerrity said his company planned to make the needed capital improvements while testifying before the Interim Joint Committee on Licensing, Occupations & Administrative Regulations on July 20 at Ellis Park. He said a group of the executives was onsite to explore potential areas to improve.

Gerrity was responding to a question from Senate Majority Floor Leader Damon Thayer, R-Georgetown.

“I love this track,” Thayer said. “I have been here several times. I think it has a lot of character. I love older tracks like this, but they need a little tender loving care. I’m certainly personally interested ... in hearing about potential investments in this facility.”

Ellis Park was established in 1922, not far from the state’s border with Indiana.

Gerrity added that the goal was to craft a plan for the overall enhancement of patrons’ experience. He said no immediate management changes were planned for the track.

Saratoga Casino previously owned a 30-percent stake in the property. Gerrity didn’t disclose how much was paid for the remaining 70 percent. The company bought its initial stake in Ellis Park in 2012 from businessman Ron Geary.

Geary testified that he was encouraged by his family to sell his ownership in the race-track and “slow down” a bit. He purchased the property in 2006. Geary said that they have had “some great successes” with Ellis Park and that he was convinced Saratoga Casino would continue that progress.

Rep. Robby Mills, R-Henderson, said El-

Continued on page 38

2018

Kentucky

General Assembly

Senate

Julie Raque Adams (36)

213 S Lyndon Lane
Louisville, KY 40222
(LRC) 502-564-8100
(LRC) 502-564-8100

Ralph Alvarado (28)

3250 McClure Road
Winchester, KY 40391
(LRC) 502-564-8100

Joe Bowen (8)

2031 Fieldcrest Dr
Owensboro, KY 42301
(LRC) 502-564-8100
(Home) 270-685-1859

Tom Buford (22)

409 W Maple St
Nicholasville, KY 40356
(LRC) 502-564-8100
(LRC FAX) 502-564-2466
(Home) 859-885-0606
(Home FAX) 859-885-0606

Jared Carpenter (34)

PO Box 100
Berea, KY 40403
(LRC) 502-564-8100

Danny Carroll (2)

220 Cimarron Way
Paducah, KY 42001
(LRC) 502-564-8100
(Home) 270-703-8025

Julian M. Carroll (7)

702 Capitol Ave
Annex Room 255
Frankfort, KY 40601
(LRC) 502-564-8100

Perry B. Clark (37)

5716 New Cut Rd
Louisville, KY 40214
(LRC) 502-564-8100

C.B. Embry Jr. (6)

PO Box 1215
Morgantown, KY 42261
(LRC) 502-564-8100
(Home) 270-526-6237

Rick Girdler (15)

702 Capitol Ave
Annex Room 209
Frankfort, KY 40601
(LRC) 502-564-8100

David P. Givens (9)

PO Box 12
Greensburg, KY 42743
(LRC) 502-564-8100

Denise Harper Angel (35)

2521 Ransdell Ave
Louisville, KY 40204
(LRC) 502-564-8100
(Home) 502-452-9130

Ernie Harris (26)

PO Box 1073
Crestwood, KY 40014
(LRC) 502-564-8100
(Home) 502-241-8307

Jimmy Higdon (14)

344 N Spalding
Lebanon, KY 40033
(LRC) 502-564-8100
(Home) 270-692-6945

Paul Hornback (20)

6102 Cropper Rd
Shelbyville, KY 40065
(LRC) 502-564-8100

Stan Humphries (1)

763 Sinking Fork Rd
Cadiz, KY 42211
(LRC) 502-564-8100
(Home) 270-522-0195

Ray S. Jones II (31)

PO Drawer 3850
Pikeville, KY 41502
(LRC) 502-564-8100
(Work) 606-432-5777
(Work FAX) 606-432-5154

Alice Forgy Kerr (12)

3274 Gondola Dr
Lexington, KY 40513
(LRC) 502-564-8100
(Home) 859-223-3274

Christian McDaniel (23)

PO Box 15231
Latonia, KY 41015
(LRC) 502-564-8100

Morgan McGarvey (19)

2250 Winston Ave
Louisville, KY 40205
(LRC) 502-564-8100
(Home) 502-589-2780

Stephen Meredith (5)

1424 Byrtle Grove Rd
Leitchfield, KY 42754
(LRC) 502-564-8100

Gerald A. Neal (33)

462 S 4th St
Meidinger Twr, Ste. 1250
Louisville, KY 40202
(LRC) 502-564-8100
(Home) 502-776-1222
(Work) 502-584-8500
(Work FAX) 502-584-1119

Dennis Parrett (10)

731 Thomas Rd
Elizabethtown, KY 42701
(LRC) 502-564-8100
(Home) 270-765-4565

Dorsey Ridley (4)

4030 Hidden Creek Dr
Henderson, KY 42420
(LRC) 502-564-8100
(Home) 270-826-5402
(Work) 270-869-0505

Albert Robinson (21)

1249 S Main St
London, KY 40741
(LRC) 502-564-8100
(Home) 606-878-6877

John Schickel (11)

PO Box 991
Union, KY 41091
(LRC) 502-564-8100

Wil Schroder (24)

702 Capitol Ave
Annex Room 209
Frankfort, KY 40601
(LRC) 502-564-8100

Dan “Malano” Seum (38)

1107 Holly Ave
Fairdale, KY 40118
(LRC) 502-564-8100
(Home) 502-749-2859

Brandon Smith (30)

124 Craig Street
Hazard, KY 41702
(LRC) 502-564-8100
(Home) 606-436-4526
(Home FAX) 606-436-4526

Robert Stivers II (25)

207 Main St
Manchester, KY 40962
(LRC) 502-564-8100
(Home) 606-598-8575
(Work) 606-598-2322
(Work FAX) 606-598-2357

Damon Thayer (17)

105 Spyglass Dr
Georgetown, KY 40324
(LRC) 502-564-8100

Reginald Thomas (13)

702 Capitol Ave
Annex Room 255
Frankfort, KY 40601
(LRC) 502-564-8100
(LRC FAX) 502-564-0777

Johnny Ray Turner (29)

849 Crestwood Dr
Prestonsburg, KY 41653
(LRC) 502-564-8100
(Home) 606-889-6568

Robin L. Webb (18)

404 W Main St
Grayson, KY 41143
(LRC) 502-564-8100
(Home) 606-474-5380

Stephen West (27)

202 Vimont Ln
Paris, KY 40361
(LRC) 502-564-8100

Whitney Westerfield (3)

700 South Main Street
PO Box 1107
Hopkinsville, KY 42241
(LRC) 502-564-8100
(Work) 270-885-7671

Mike Wilson (32)

702 Capitol Ave, Annex Room 242
Frankfort, KY 40601
(LRC) 502-564-8100

Max Wise (16)

Annex, Room 229
Frankfort, KY 40601
(LRC) 502-564-8100

* Members of the Kentucky General Assembly may also be contacted by calling 502-564-8100.

2018 Kentucky General Assembly

House

Rocky Adkins (99)	PO Box 688 Sandy Hook, KY 41171 (LRC) 502-564-8100 (Home) 606-738-4242 (Work) 606-928-0407 (Work FAX) 606-929-5913	Tim Couch (90)	PO Box 710 Hyden, KY 41749 (LRC) 502-564-8100 (Home) (606) 672-8999 (Home FAX) 606-672-8998	Derrick Graham (57)	157 Bellemeade Dr Frankfort, KY 40601 (LRC) 502-564-8100 (Home) 502-223-1769
Lynn Bechler (4)	2359 Brown Mines Rd Marion, KY 42064 (LRC) 502-564-8100 (Home) 270-988-4171	Will Coursey (6)	285 Oak Level Elva Rd Symsonia, KY 42082 (LRC) 502-564-8100 (Home) 270-851-4433	Jeff Greer (27)	PO Box 1007 Brandenburg, KY 40108 (LRC) 502-564-8100 (Home) 270-422-5100 (Home FAX) 270-422-5100
Linda Belcher (49)	4804 Hickory Hollow Ln Shepherdsville, KY 40165 (LRC) 502-564-81001	Jim DeCesare (17)	PO Box 122 Rockfield, KY 42274 (LRC) 502-564-8100 (Home) 270-792-5779 (Work) 270-792-5779	David Hale (74)	11 Hales Ln Wellington, KY 40387 (LRC) 502-564-8100 (Home) 606-768-3474
Danny Bentley (98)	702 Capitol Avenue Annex Room 329J Frankfort KY 40601 (LRC) 502-564-8100	Jeffery Donohue (37)	PO Box 509 Fairdale, KY 40118 (LRC) 502-564-8100 (Work) 502-439-6175	Chris Harris (93)	719 Forest Hills Rd Forest Hills, KY 41527 (LRC) 502-564-8100 (Home) 606-237-0055
Robert Benvenuti III (88)	2384 Abbeywood Rd Lexington, KY 40515 (LRC) 502-564-8100 (Home) 859-421-1464	Myron Dossett (9)	491 E Nashville St Pembroke, KY 42266 (LRC) 502-564-8100 (Home) 270-475-9503	Mark Hart (78)	202 W 4th St Falmouth, KY 41040 (LRC) 502-564-8100 (Home) 859-654-4278
John Blanton (92)	702 Capitol Avenue Annex Room 329H Frankfort, KY 40601 (LRC) 502-564-8100	Jim DuPlessis (25)	702 Capitol Ave Annex Room 376 Frankfort, KY 40601 (LRC) 502-564-8100	Angie Hatton (94)	20 Ohio St Whitesburg, KY 41858 (LRC) 502-564-8100
Kevin D. Bratcher (29)	10215 Landwood Dr Louisville, KY 40291 (LRC) 502-564-8100 (Home) 502-231-3311	Daniel Elliott (54)	PO Box 2082 Danville, KY 40423 (LRC) 502-564-8100 (Home) 859-332-4204	Richard Heath (2)	438 Millers Chapel Rd Mayfield, KY 42066 (LRC) 502-564-8100 (Home) 270-705-7539 (Work) 270-247-2210 (Work FAX) 270-247-2304
Larry Brown (95)	PO Box 550 Prestonsburg, KY 41653 (LRC) 502-564-8100 (Work) 606-886-8132	Joseph M. Fischer (68)	126 Dixie Place Ft Thomas, KY 41075 (LRC) 502-564-8100 (Home) 859-781-6965 (Work) 513-794-6442	Toby Herald (91)	PO Box 1602 Beattyville, KY 41311 (LRC) 502-564-8100
George Brown Jr. (77)	424 E Fourth Street Lexington, KY 40508 (LRC) 502-564-8100 (Home) 859-312-7513	Ken Fleming (48)	PO Box 6573 Louisville, KY 40206 (LRC) 502-564-8100	Jeff Hoover (83)	PO Box 985 Jamestown, KY 42629 (LRC) 502-564-8100 (Home) 270-343-2264 (Work) 270-343-5588
Tom Burch (30)	4012 Lambert Ave Louisville, KY 40218 (LRC) 502-564-8100 (Home) 502-454-4002	Kelly Flood (75)	121 Arcadia Park Lexington, KY 40503 (LRC) 502-564-8100 (Home) 859-221-3107	Dennis Horlander (40)	1806 Farnsley Rd, Ste 6 Shively, KY 40216 (LRC) 502-564-8100 (Home) 502-447-2498 (Work) 502-447-9000
McKenzie Cantrell (38)	702 Capitol Avenue Annex Room 424A Frankfort, KY 40601 (LRC) 502-564-8100	Chris Fugate (84)	277 Right Branch Spencer Chavies, KY 41727 (LRC) 502-564-8100 (Home) 606-233-5660	Regina Huff (82)	179 Mountain St Williamsburg, KY 40769- (LRC) 502-564-8100 (Home) 606-549-3439
John Carney (51)	PO Box 4064 Campbellsville, KY 42719-4064 (LRC) 502-564-8100 (Home) 270-403-7980	Al Gentry (46)	8406 Cloverport Dr Louisville, KY 40228 (LRC) 502-564-8100	Kenny Imes (5)	4064 US 641 N Murray, KY 42071 (LRC) 502-564-8100
Matt Castlen (14)	702 Capitol Ave Annex Room 329D Frankfort, KY 40601 (LRC) 502-564-8100	Robert Goforth (89)	2163 E Highway 30 East Bernstadt, KY 40729 (LRC) 502-564-8100 (LRC FAX) 502-564-5640 (Home) 606-305-1321	Joni L. Jenkins (44)	2010 O'Brien Ct Shively, KY 40216 (LRC) 502-564-8100 (Home) 502-447-4324 (Home FAX) 502-538-0877
		Jim Gooch Jr. (12)	714 N Broadway B2 Providence, KY 42450 (LRC) 502-564-8100 (Home) 270-667-7327 (Work FAX) 270-667-5111	DJ Johnson (13)	PO Box 6028 Owensboro, KY 42302 (LRC) 502-564-8100

2018 Kentucky General Assembly

James Kay (56)	PO Box 1536 Versailles, KY 40383 (LRC) 502-564-8100
Dennis Keene (67)	1040 Johns Hill Rd Wilders, KY 41076 (LRC) 502-564-8100 (Home) 859-441-5894
Kim King (55)	250 Bright Leaf Dr Harrodsburg, KY 40330 (LRC) 502-564-8100 (Home) 859-734-2173
Adam Koenig (69)	170 Herrington Ct #12 Erlanger, KY 41018 (LRC) 502-564-8100 (Home) 859-653-5312
Stan Lee (45)	PO Box 2090 Lexington, KY 40588 (LRC) 502-564-8100 (Home) 859-252-2202 (Home FAX) 859-259-2927
Brian Linder (61)	16 Ridgeview Cir Dry Ridge, KY 41035 (LRC) 502-564-8100
Mary Lou Marzian (34)	2007 Tyler Ln Louisville, KY 40205 (LRC) 502-564-8100 (Home) 502-451-5032
Donna Mayfield (73)	2059 Elkin Station Rd Winchester, KY 40391 (LRC) 502-564-8100 (Home) 859-745-5941
Chad McCoy (50)	702 Capitol Avenue Annex Room 416B Frankfort, KY 40601 (LRC) 502-564-8100
David Meade (80)	PO Box 121 Stanford, KY 40484 (LRC) 502-564-8100
Reginald Meeks (42)	PO Box 757 Louisville, KY 40201 (LRC) 502-564-8100 (Work) 502-741-7464
Michael Meredith (19)	PO Box 292 Brownsville, KY 42210 (LRC) 502-564-8100 (Work) 270-597-6049
Russ A. Meyer (39)	106 Lone Oak Drive Nicholasville, KY 40356 (LRC) 502-564-8100
Suzanne Miles (7)	PO Box 21592 Owensboro, KY 42304 (LRC) 502-564-8100
Charles Miller (28)	3608 Gateview Cir Louisville, KY 40272 (LRC) 502-564-8100 (Home) 502-937-7788
Jerry T. Miller (36)	PO Box 36 Eastwood, KY 40018 (LRC) 502-564-8100

Robby Mills (11)	702 Capitol Avenue Annex Room 413C Frankfort, KY 40601 (LRC/Home) 502-564-8100
Phil Moffett (32)	812 Brookhill Rd Louisville, KY 40223 (LRC) 502-564-8100
Tim Moore (18)	417 Bates Rd Elizabethtown, KY 42701 (LRC) 502-564-8100 (Home) 270-769-5878
C. Wesley Morgan (81)	239 Eastern By-Pass Richmond, KY 40475 (LRC) 502-564-8100
Kimberly Poore Moser (64)	PO Box 143 Independence, KY 41051 (LRC) 502-564-8100
Rick G. Nelson (87)	117 Gumwood Rd Middlesboro, KY 40965 (LRC) 502-564-8100 (Home) 606-248-8828 (Home FAX) 606-248-8828
Jason Nemes (33)	702 Capitol Avenue Annex Room 416C Frankfort, KY 40601 (LRC) 502-564-8100
David Osborne (59)	PO Box 8 Prospect, KY 40059 (LRC) 502-564-8100 (Work) 502-645-2186
Sannie Overly (72)	340 Main St Paris, KY 40361 (LRC) 502-564-8100 (Home) 859-987-9879
Darryl T. Owens (43)	1018 S 4th St, Ste 100 Louisville, KY 40203 (LRC) 502-564-8100 (Home) 502-584-6341
Ruth Ann Palumbo (76)	10 Deepwood Dr Lexington, KY 40505 (LRC) 502-564-8100 (Home) 859-299-2597
Jason Petrie (16)	PO Box 397 Elkton, KY 42220 (LRC) 502-564-8100 (Home) 270-265-3163 (Home FAX) 270-265-3164
Phillip Pratt (62)	702 Capitol Ave Annex Room 351 Frankfort, KY 40601 (LRC) 502-564-8100
Melinda Gibbons Prunty (15)	PO Box 411 Greenville, KY 42345 (LRC) 502-564-8100
Rick Rand (47)	PO Box 273 Bedford, KY 40006 (LRC) 502-564-8100 (Home) 502-255-3392 (Work) 502-255-3286 (Work FAX) 502-255-9911

Brandon Reed (24)	113 N Walters Ave P.O. Box 8 Hodgenville, KY 42748 (LRC) 502-564-8100 (Work) 270-358-0868
Jody Richards (20)	817 Culpeper St Bowling Green, KY 42103 (LRC) 502-564-8100 (Home) 270-842-6731
Steve Riggs (31)	PO Box 24586 Louisville, KY 40224 (LRC) 502-564-8100 (LRC FAX) 502-564-6543
Steve Riley (23)	189 Blue Sky Dr Glasgow, KY 42141 (LRC) 502-564-8100 (Home) 270-646-6821
Rob Rothenburger (58)	811 Stapleton Rd Shelbyville, KY 40065 (LRC) 502-564-8100 (Home) 502-633-5832
Bart Rowland (21)	PO Box 336 Tompkinsville, KY 42167 (LRC) 502-564-8100
Steven Rudy (1)	350 Peppers Mill Drive Paducah, KY 42001 (Home) 270-744-8137 (LRC) 502-564-8100
Sal Santoro (60)	12094 Jockey Club Dr Union, KY 41091 (LRC) 502-564-8100 (Home) 859-371-8840 (Home FAX) 859-371-4060
Dean Schamore (10)	120 Ball Park Rd Hardinsburg, KY 40143 (LRC) 502-564-8100
Attica Scott (41)	702 Capitol Ave Annex Room 432C Frankfort, KY 40601 (LRC) 502-564-8100
Jonathan Shell (71)	PO Box 138 Lancaster, KY 40444 (LRC) 502-564-8100
Arnold Simpson (65)	112 W 11th St Covington, KY 41011 (LRC) 502-564-8100 (Home) 859-581-6521 (Home FAX) 859-261-6582 (Work) 859-261-6577
John Sims Jr (70)	3177 Maysville Rd Flemingsburg, KY 41041 (LRC) 502-564-8100 (Home) 606-748-1839
Kevin Sinnette (100)	PO Box 1358 Ashland KY 41105 (LRC) 502-564-8100 (Home) 606-324-5711 (Home FAX) 606-329-1430

2018 Kentucky General Assembly

Diane St. Onge (63)

523 Kluemper Court
Fort Wright KY 41011
(LRC) 502-564-8100
(Home) 859-341-1231

Jim Stewart III (86)

545 KY 223
Flat Lick, KY 40935
(LRC) 502-564-8100
(Home) 606-542-5210

Wilson Stone (22)

1481 Jefferson School Road
Scottsville, KY 42164
(LRC) 502-564-8100
(Home) 270-622-5054

Walker Thomas (8)

2620 Cox Mill Rd
Hopkinsville, KY 42240
(LRC) 502-564-8100
(Home) 270-889-8091
(Home FAX) 270-885-5335

James Tipton (53)

8151 Little Mount Rd
Taylorsville, KY 40071
(LRC) 502-564-8100

Tommy Turner (85)

175 Clifty Grove Church
Somerset, KY 42501
(LRC) 502-564-8100
(Home) 606-274-5175

Ken Upchurch (52)

PO Box 969
Monticello, KY 42633
(LRC) 502-564-8100
(Home) 606-340-8490

Gerald Watkins (3)

4317 Pines Rd
Paducah, KY 42001
(LRC) 502-564-8100
(Home) 270-558-5139

Jim Wayne (35)

1280 Royal Ave
Louisville, KY 40204
(LRC) 502-564-8100
(Work) 502-303-3732

Russell Webber (26)

PO Box 6605
Shepherdsville, KY 40165
(LRC) 502-564-8100
(Home) 502-543-8209

Scott Wells (97)

836 Liberty Rd
West Liberty, KY 41472
(LRC) 502-564-8100

Susan Westrom (79)

PO Box 22778
Lexington, KY 40522-
(LRC) 502-564-8100
(Work) 859-266-7581

Addia Wuchner (66)

PO Box 911
Burlington, KY 41005
(LRC) 502-564-8100
(Work) 859-525-6698

Jill York (96)

PO Box 591
Grayson, KY 41143
(LRC) 502-564-8100
(Work) 606-474-7263
(Work FAX) 606-474-7638

*** Members of the Kentucky General Assembly may also be
contacted by calling 502-564-8100.**

LRC Publications 2018 Price List

Daily Record Pickup: \$165

Daily Record Mailed: \$165 (plus
postage)

Friday Record Mailed: \$38.50 (plus
postage)

Individual Record Pickup: \$2.75

Individual Record Mailed: \$2.75 (plus
postage)

Bills

Complete Set of Bills and Resolutions
(Pick-up): \$630

Individual Bills Per Page: \$.05

Amendments Per Page: \$.05

Roll Call Votes: \$.15 Per Page

Publications

1-10 copies: Free to general public;
larger numbers of free copies available
to schools and state agencies (*Copies
over preapproved limits require approval
of LRC Director's Office*)

Administrative Regulations (2017)

Bound Volumes: \$253.12

Administrative Register: \$120.00

Volumes and Register: \$373.12

Acts of the General Assembly

Regular Sessions: Priced after printing

Special Sessions: Priced after printing

Journals

House and Senate Complete Set, House
Set, Senate Set: Priced after printing

*(All prices subject to 6% Kentucky sales
tax, and subject to change)*

Committee Meetings

Index

- A**
Administrative Regulation Review Subcommittee, 26
Agriculture, 17
Appropriations and Revenue, 20, 21, 22
- C**
Capital Projects and Bond Oversight, 23
- E**
Economic Development and Workforce Investment, 13
Education Assessment and Accountability Review Subcommittee, 35
- H**
Health and Welfare and Family Services, 10
- J**
Judiciary, 8
- L**
Licensing, Occupations, and Administrative Regulations, 18
- M**
Medicaid Oversight and Advisory Committee, 32
- P**
Public Pension Oversight Board, 30
- S**
School Safety Working Group, 25
- T**
Tax Expenditures, Task Force on, 36
Tobacco Settlement Agreement Fund Oversight Committee, 37
Tourism, Small Business and Information Technology, 16

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 2nd Meeting of the 2018 Interim

July 6, 2018

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Judiciary was held on Friday, July 6, 2018, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joseph M. Fischer, Co-Chair, Senator Whitney Westerfield, Co-Chair; Senators Danny Carroll, Perry B. Clark, Ray S. Jones II, Alice Forgy Kerr, John Schickel, Wil Schroder, Dan “Malano” Seum, and Robin L. Webb; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Daniel Elliott, Angie Hatton, Joni L. Jenkins, Chad McCoy, Reginald Meeks, C. Wesley Morgan, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Brandon Reed, Kevin Sinnette, and Gerald Watkins.

Guests: Geno Yoscovits, Samantha Budzyn, John Cooper, John McGarvey, William May, Debbie Donnelly, Gabrielle Summe, Lindsay Hughes Thurston, Andrew English, Randy White, Chris Cohron, Brian Wright, Michael Mannheimer, and Damon Preston.

LRC Staff: Katie Comstock, Alice Lyon, Chandani Kemper, Breanna Miller, and Yvonne Beghtol.

Chairman Fischer welcomed those in attendance and asked for a motion to approve the minutes from the June 1, 2018 meeting. Senator Schickel made a motion that was seconded by Representative McCoy and approved by voice vote.

eNotarization and eRecording: An Overview

Geno Yoscovits, with Quicken Loans, and Samantha Budzyn, with Amrock, testified about the different types of eClosings and their security measures. Ms. Budzyn explained the three types of eClosings:

- Hybrid In-Person - Face-to-face with the notary, almost all non-notarized documents are signed electronically, and all notarized documents are wet signed and notarized on paper.
- In-Person eNotarization (IPEN) - Face-to-face with the notary, but all documents are electronic, eSigned, and eNotarized.
- Remote Online Notarization (RON) – Two-way audio-visual (similar to Skype or Face Timing, but with more security) and all documents are electronic, eSigned, and eNotarized.

Mr. Yoscovits emphasized the convenience (can be done from anywhere), security (scanning visual ID, answering security questions), environmental

(less paper), and technological (consumers expect it) advantages. Nine states have already adopted the RON eClosing system, and many others have introduced the movement and are moving towards its adoption.

In response to Representative Watkins, Mr. Yoscovits said that Quicken Loans has had 4,500 closings in Kentucky during the past six months.

In response to Representative Sinnette, Ms. Budzyn said that the audio-visual recordings are securely stored on a cloud with either the title company, the lender, or the software provider. Mr. Yoscovits said that the recordings are required under statute to be stored 5 to 7 years. Due to the possibility of a lender going out of business, Quicken Loans is pushing for the title company to be the holder of the recordings. Ms. Budzyn said that having the document in an electronic format gives access to multiple parties, making the change of lenders more seamless.

In response to Senator Webb, Ms. Budzyn said that privacy and security issues could be addressed by the statutory requirements of the bill. Having the title company, who already has firewalls in place, in lieu of the notary keeping the information would help ensure security.

In response to Senator Carroll, Chairman Fischer said that no revenue to Kentucky is lost by having an out-of-state online lender as compared to having an in-state lender. The lender would still have to pay a transfer tax. This was reiterated by Mr. Yoscovits.

In response to Chairman Westerfield, Ms. Budzyn informed that, while the uploaded identification needs to be of good quality, there is no set standard. A third party reviews the uploaded ID to verify its authenticity. Mortgage Industry Standards Maintenance Organization (MISMO) is a company that sets the criteria for online loan applications, in an effort to keep fraudulent applications from being accepted. Ms. Budzyn knows of six or seven companies that offer similar electronic services in Virginia.

In response to Representative Petrie, Mr. Yoscovits acknowledged that the goal is to make eNotarizing and eClosings an option for Kentucky. Ms. Budzyn said that a live notary would be available online to answer any questions or to contact the involved vendors to get obtain information for the client. Many vendors are considering an online video conference with multiple parties to assist with any questions during the process. Having an attorney present would certainly be an option if the borrower thought it would be beneficial.

eNotarization and eRecording: The Kentucky Bankers Association's Perspective

John McGarvey, with Morgan & Pottinger, said

that electronic recording has been available for 14 years and is currently in 34 states. The purpose is to give county clerks the legal authority to prepare for electronic recording. Fees may increase to pay for the additional technology that will be required in the clerks' offices. The difference between ordinary electronic records and real estate records is that it has to be recorded with a title trail. To modernize, Kentucky should recognize the need to equate electronic documentation with the paper document and establish standards. One benefit of the Revised Uniform Law on Notarial Acts (RULONA) is authorizing remote notarization.

In response to Representative Petrie, Mr. McGarvey agrees that because reliable internet broadband to all parts of Kentucky is still an issue, electronic signing is an option and not mandatory. Adding the requirement that broadband be available to all of Kentucky would have a large fiscal impact; permitting the option would be reasonable.

In response to Representative Hatton, Mr. McGarvey could not assume that any savings the Act may offer the lender would be passed along to the borrower. As to whether this would provide an unfair advantage to out-of-state lenders over local institutions, Mr. McGarvey said that the Kentucky Bankers Association strongly supports this Act.

In response to Representative McCoy, Mr. McGarvey said the two model laws already in existence are the Uniform Real Property Electronic Recording Act (URPERA) and RULONA. They do not dictate the file format to be used but authorize the local board to adopt standards for Kentucky.

eNotarization and eRecording: A County Clerk's Perspective

William May, Executive Director of the Kentucky County Clerks Association, introduced the panel.

Debby Donnelly, Hardin County Clerk, said that the Kentucky County Clerks Association has a task force to make sure legislation concerning eNotarization meets industry standards for speed and efficiency and protects citizens from fraudulent practices.

Lindsay Hughes Thurston, Assistant Secretary of State, discussed the Secretary of State's four-year Notary Task Force that seeks assist Kentucky in getting up-to-date with eNotarization. Kentucky's notary laws have not been updated since 1956. The fact that four bills regarding notaries were presented during the past session indicates that Kentucky is ready and moving in that direction. Ms. Thurston stated that using RULONA as a guideline will keep Kentucky in line with the 23 states that have already enacted eNotarization. Secretary Grimes and those behind this Act are hopeful it will come to realization during the 2019 Session.

Gabrielle Summe, Kenton County Clerk, said the task force is important to ensure that small counties are included and protected. The Notary Task Force has not yet voted on specific legislation relating to eRecording or eNotarization. The Uniform Electronic

Transactions Act (UETA) adopted in Kentucky in 2000 included specific exceptions pertaining to real estate law. There are still many issues to be considered, such as recording fees, the affects the county clerks' offices, passing a deed through a will, preservation of records, costs, and others. There is a lawsuit on the Mortgage Electronic Registration System (MERS) because of the way things had been moved. While the clerks are looking forward to the change, they want to make sure all of these items are considered.

In response to Representative Petrie, Ms. Summe believes all but a few of the counties keep data online. Mr. May offered to get information regarding any counties not currently keeping data online. Regarding the cost to updating each county, Ms. Summe said that updating her 1991 computer system could cost approximately \$100,000. Regarding written recommendations on notaries from the notary task force, Ms. Thurston offered to obtain that information.

In response to Chairman Fischer, Ms. Thurston said that the task force is active and will invite interested legislators in an effort to better prepare for the 2019 session.

In response to Senator Schroder, Ms. Thurston said the task force is aggressively working to make recommendations by September. After working with the different entities, the plan is to present one bill.

In response to Senator Carroll as to which documents would be available to the public and which would be online or hard copies, Ms. Thurston said it would depend on the document requested. Some are available at no cost, but some may require a fee.

Capital Punishment: An Update from the Justice Cabinet

Andrew English, General Counsel for the Kentucky Justice and Public Safety Cabinet, discussed the death penalty in Kentucky. The last execution in 2008. In 2010, the courts issued an injunction to cease executions. In 2012, the Department of Corrections attempted to rewrite the regulations in accordance with federal laws and to address the concerns in the injunction. In trying again to rewrite the regulations, DOC is taking into consideration more access for defense counsel, the drug protocols (moving away from the two drug protocol to the more traditional one drug protocol), and the defendant's mental capacity.

In response to Chairman Fischer, Mr. English feels comfortable that the new regulations address the concern of whether the defendant's IQ versus mental capacity will prevail, but the courts would have the ultimate determination. Randy White, Deputy Commissioner of Adult Institutions, stated that Kentucky has 31 inmates on death row. He will obtain a demographic breakdown.

In response to Representative Petrie, Mr. English said that the Department of Corrections does not take a position on the death penalty. DOC carries out the sentencing required by law.

In response to Representative Jenkins, Mr. White believes Kentucky has had approximately 163

executions since 1910, the last being in 2008. Mr. English agreed with Chairman Fischer that three executions since 1976 sounds correct.

In response to Representative Meeks, Mr. White will obtain a profile report for the 31 inmates on death row. Only one is female, and he estimates 5 or 6 are African American. Chairman Westerfield requested that the report include age, the offense, and the length of time on death row. Mr. White stated that the average time on death row at this time is 24.5 years. Representative Jenkins requested that the report include how many were able to obtain private attorneys. Senator Webb requested information on whether new technology. Chairman Fischer asked that the report be sent to staff for distribution to all members.

Capital Punishment: A Prosecutor's Perspective

Brian Wright, Commonwealth's Attorney for the 29th Judicial Circuit, discussed the process to determine what cases merit the death penalty. Things to consider would be the nature of the offense, criminal history, mental health issues, input from law enforcement, and from the victim's family.

Chris Cohron, Commonwealth's Attorney for the 8th Judicial Circuit, said that it is the Commonwealth's Attorney's decision to decide if the case warrants seeking the death penalty or life without parole. It is not sought without substantial cause. He said that the Department of Corrections website has a summary of the individuals on death row. The Commonwealth's Attorneys Association believes the death penalty is still a necessary and viable option for Kentucky.

In response to Senator Jones, Mr. Cohron said that there is a list of statutory offenses that could warrant seeking the death penalty. Chairman Fisher included it in the member's packets. Mr. Cohron and Mr. Wright agree that a timelier follow through on death penalty sentencing is needed to give the victims and their families a sense of closure.

Capital Punishment: An Opponent's Perspective

Representative McCoy introduced the panel's standpoint of "does this law work" from a criminal law and economic perspective.

Michael Mannheimer, Professor at Chase College of Law, spoke on the American Bar Association's (ABA) Death Penalty Assessment issued December 2011 (available online at www.ambar.org/kentucky). The Death Penalty Assessment Team was assembled in 2009. The purpose was to evaluate how fairly the death penalty was implemented. The assessment required 90 different benchmarks established by the ABA, under 12 different categories. Two major areas of concern were affording every capitol defendant a fair and accurate proceeding, and minimizing the risk of executing the innocent. He advised that, since the report is from 2011, some of the information may have changed. From 1976 to 2011, 50 of the 78 sentenced to death had their convictions overturned on appeal due to trial errors. Retrials due to these

errors are a costly expense. Biological evidence is not required to be retained for the length of the incarceration. DNA is only required if probable cause exists that the inmate sentenced to death is innocent, but not when determining if the defendant should be sentenced to death. There is no uniform standard on eyewitness identifications and interrogations, which are the two leading causes of wrongful convictions. Kentucky does not prohibit death penalty sentencing for a defendant with a severe mental illness. At least 10 of the 78 sentenced to death were represented by attorneys who were later disbarred. Another factor is the excessive caseloads and low pay for the defense attorneys, along with insufficient funding for the investigative services. A survey showed that a high percentage of jurors failed to understand the sentencing instructions before making decisions. There is no statewide mechanism to guide prosecutors in determining when to seek the death penalty, and there is a lack of data collection and retention throughout the administration. Knowing if a prosecutor could have sought the death penalty and did not or whether it was sought and was not imposed could determine if there is racial bias and whether defendants are being treated equally across the Commonwealth. While the Racial Justice Act (RJA) in Kentucky is strong, there are shortcomings that prevent it from being an effective remedy. As a result of the findings, the team recommended a suspension of execution until the issues were rectified.

Damon Preston, Public Advocate, addressed the cost of seeking the death penalty. Many argue that the death penalty is more cost efficient than life without the chance of parole. However, the majority of the cost is on the front end during the trial when the death penalty is an option. With only one execution in 42 years, the state will continue to incur the full cost of a trial that seeks the death penalty, although the sentencing becomes life in prison without the possibility of parole. There are 52 cases in which the prosecutor has filed a notice of intent to seek the death penalty. Only one case in the last five years has received the death penalty. Regarding a recent death penalty case in Lexington involving two defendants, eight fulltime DPA employees were assigned, which cost about \$80,000 just for their pay and benefits during the four week trial. The outcome was that one defendant was acquitted and there was a hung jury on the other.

Representative Nemes reiterated that being cost efficient with Kentucky's resources is reason enough to not offer the death penalty. The only justifiable reason to take a life is to protect another life. Therefore, life without parole would satisfy this need. Representative Nemes stated that, if society does not believe the government can do small jobs efficiently, society should not give it the power to decide whether to take a life. The state should not expedite the process, given the number of death row inmates who have been exonerated.

In response to Representative Cantrell,

Representative Nemes believes, if the stay is lifted, Kentucky would be able to procure the necessary means for the executions.

Senator Webb agrees that the death penalty should be considered and discussed thoroughly before taking action.

In response to Representative Elliott, Mr. Cohron believes the best defense for a moratorium is that the only pressure to act in a timely manner is on behalf of the victim's family. Mr. Wright believes there should not be a moratorium because the issues are more of a practical, not a fundamental, problem with the death penalty.

In response to Chairman Fischer, Mr. Cohron and Mr. Wright agree that not having the death penalty as an option would not be more cost efficient on the prosecutors' end.

In response to Senator Carroll, Mr. Cohron and Mr. Wright agree that having the death penalty carried out more efficiently and timely benefit the victim's family.

Representative Watkins gave statistics on death row inmates. He said that life in prison is not much of a deterrent, but the death penalty is.

Representative Jenkins believes poverty and race play a role in who is charged with the death penalty. She would like more available data to research this issue.

Representative Blanton believes that the death penalty is necessary because the victims do not get a choice on when or by what means their lives are taken. Whether to have the death penalty should not be based on the financial cost.

Chairman Fischer said that the August 3rd meeting will be at Lake Barkley State Resort Park.

There being no further business, the meeting adjourned at 12:35 pm.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES

Minutes of the Second Meeting of the 2018 Interim

July 18, 2018

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, July 18, 2018, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 10:08 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Tom Buford, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, Reginald Thomas, and Max Wise; Representatives Danny Bentley, Larry Brown, George Brown Jr, Daniel Elliott, Joni L. Jenkins, Mary Lou Marzian, Chad McCoy, Russ A. Meyer, Kimberly Poore Moser,

Melinda Gibbons Prunty, Steve Riley, and Russell Webber.

Guests: Brit Anderson, MD, Pediatric Emergency Physician, University of Louisville School of Medicine, Department of Pediatrics, Emergency Medicine; Cynthia Downard, MD, Pediatric Surgeon, University of Louisville School of Medicine, Department of Pediatrics, Surgery; Christopher Peters, Child and Adolescent Psychiatrist, University of Louisville School of Medicine, Department of Pediatrics, Child and Adolescent Psychiatry and Psychology; Jennifer Green, MD, Child Abuse Pediatrics Fellow, University of Louisville School of Medicine, Department of Pediatrics; Morgan Skaggs, Project Director, Kentucky Emergency Medical Services for Children, Kentucky Board of Emergency Medical Services; Jeff Rubin, Positive Aging Advocate, Consultant on Aging and Community Issues; Demetra Antimisiaris, PharmD, BCGP, FASCP, Associate Professor, University of Louisville School of Medicine, Department of Pharmacology and Toxicology; Jeffrey Howard, MD, Commissioner, Department for Public Health, Cabinet for Health and Family Services; Mackenzie Langone, Alzheimer's Association; Terri Thomas, Harbor House of Louisville; Christine Arnett, Amanda Clark, Cathy Hobart, and Nancy Birdwhistell, Moms Demand Action; and Mike Mansfield, Retired University of Louisville faculty member.

LRC Staff: DeeAnn Wenk, Ben Payne, and Gina Rigby.

Approval of Minutes from June 20, 2018

A motion to approve the minutes of the June 20, 2018 meeting was made by Representative Moser, seconded by Senator Alvarado, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following administrative regulations were referred to the committee for consideration: **201 KAR 9:021** - Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees; **201 KAR 9:031** - Examinations; **906 KAR 1:200** - Use of Civil Money Penalty Funds collected from certified Long-term Care facilities; **922 KAR 2:090** - Child-care center licensure; **922 KAR 2:100** - Certification of family child-care homes; **922 KAR 2:111** - Repeal of 922 KAR 2:110; 922 KAR 2:120 - Child-care center health and safety standards; **922 KAR 2:171** - Repeal of 922 KAR 2:170 and 922 KAR 2:210; **922 KAR 2:180** - Requirements for registered child care providers in the Child Care Assistance Program; **922 KAR 2:190** - Civil penalties; and **922 KAR 2:270** - Kentucky All STARS quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes. A motion to accept the administrative regulations was made by Senator Alvarado, seconded by Representative Moser, and approved by voice vote.

Violence, Mental Health, and Guns: Public

Health Crisis

Brit Anderson, MD, Pediatric Emergency Physician, University of Louisville School of Medicine, Department of Pediatrics, Emergency Medicine, stated that firearm related injuries and deaths have become a public health problem that affects everyone especially since some of the injuries are preventable. Public health problems require a multifaceted approach. It is very hard to watch a child die or have been injured by a gun. In the United States, 1 in 25 children have witnessed a shooting within the past year which has caused serious consequences to those children's health that will last a lifetime. According to the CDC, firearm injuries is the third leading cause of death in the United States for children over the age of 1 year. Teens in the United States have an 82 times higher rate of dying by firearm injuries than teens in other developed nations.

Cynthia Downard, MD, Pediatric Surgeon, University of Louisville School of Medicine, Department of Pediatrics, Surgery, stated that approximately 1,300 children will die from and 5,800 will be treated for firearm injuries in the United States. Of those totals, 53 percent will be homicides, 38 percent suicides, and 6 percent unintentional. Public education about firearm safety is crucial. Approximately 82 percent of firearm deaths are boys. African Americans have the highest overall fatality rate while Caucasian and Native Americans have the highest suicide rates. Young homicide victims are often bystanders. Almost four percent of children witness a firearm injury every year, and 91 percent of child firearm deaths in high income countries occur in the United States. Nineteen children are treated or die in emergency departments in the United States every day for firearm injuries. The Kentucky Department of Public Health, Division of Maternal and Child Health, prepares an annual report entitled Public Health Child Fatality Review Program that shows the child deaths in Kentucky. The goal of the program is to decrease child deaths through prevention efforts and monitor vital statistics data to identify trends related to fatalities that may be prevented in Kentucky. The latest report was published in November 2017 and summarizes information from 2011 to 2015. The 2011-2015 data reports shows the majority of deaths among children older than one year of age are due to injury-related causes with motor vehicle collision the most common reason for death. Fifty-eight percent of firearm deaths are due to suicide including an increasing number of younger children. Nationally, suicide is the third leading overall cause of death for youth.

Christopher Peters, Child and Adolescent Psychiatrist, University of Louisville School of Medicine, Department of Pediatrics, Child and Adolescent Psychiatry and Psychology, stated that firearm related deaths are the second leading cause of death, are preventable, and have become a public health crisis. A study conducted by the CDC reported a 30 percent increase in the rate of suicide

for the United States since 1999. For the majority of individuals, it is an impulsive, in-the-moment decision to commit suicide. Having guns in a home raises the risk of suicide by as much as ten times for any member of the household. If the gun is loaded and readily available, the risk is higher, especially for teenagers, than if the gun and ammunition are kept locked up and separate from each other. Kentucky needs to increase affordable health care and better access to mental health care. Substance abuse programs are one way to help identify suicidal individuals. Kentucky law states that a 16- or 17-year old can seek their own substance use treatment or reproductive care without a parent's consent, but the law also could imply that they can refuse treatment.

Jennifer Green, MD, Child Abuse Pediatrics Fellow, University of Louisville School of Medicine, Department of Pediatrics, stated that according to the Centers for Disease Control and Prevention's (CDC) National Violent Death Reporting System, in 2013, approximately 53,000 individuals died of a violence-related injury. Twenty-three percent of those deaths were attributed to homicides. Fifty-one percent of suicides and 66 percent of homicides involved one or more firearms. Of the unintentional firearm deaths, the most common was children playing with a firearm. In 2010, data from the National Intimate Partner and Sexual Violence Survey reported that it was estimated that there were more than 74 million people in the United States had experience intimate partner violence (IPV). An IPV event that involved a firearm was 12 times more likely to result in death especially if a firearm was kept in the home. Twelve percent of men in treatment for IPV reported a history of using firearms to threaten their intimate partners. Of all homicides in IPV events, 20 percent were deaths of non-intimate partner who were connected to an IPV incidence. It is estimated that 25.4 percent of non-intimate victims were 17 years of age or younger, and one-third were elementary school age. According to the Kentucky Child Fatality and Near Fatality External Panel Review, there were 567 fatalities and near fatalities from 2013 to 2017. The Department for Community Based Services (DCBS) data from 2013 to 2017 of substantiated cases of abuse or neglect, reports that there were 12 child deaths involving a firearm. Of all substantiated DCBS cases, 25 percent of families were found to have a history of violence. Of the fatality and near fatality DCBS cases, 48 percent of families were found to have a history of violence.

Morgan Skaggs, EMS provider and Project Director, Kentucky Emergency Medical Services for Children, Kentucky Board of Emergency Medical Services, stated that that the program is funded through a grant from the Health Resources Services Administration through the Maternal and Child Health Bureau to the Kentucky Board of EMS. Emergency medical services (EMS) providers support injury prevention efforts and education. EMS

providers find encounters of critical pediatric patients among the most challenging and impactful of their careers, especially those cases that could have been prevented. The statewide database on EMS incidences indicates that in 2017, there were 51 incidences of firearm injury to those 1 to 18 years of age. All types of guns have been used to inflict injury whether self-inflicted, accidental, or caused by someone else. EMS personnel have access to trauma centers, some being pediatric centers, in urban but not rural areas. In rural areas, some patients are transported to by air and many go to a local hospital for stabilization care and transport to a higher level of care, if available. The trauma system has grown but remains unfunded which adds additional challenges for rural EMS providers with long transport times. There is a huge psychological impact on EMS providers. The sights and sounds from scenes stay with EMS providers forever causing mental stress. The EMS providers would like to see continued prevention efforts and continued focus on the trauma systems improving pediatric care amongst all facilities and additional focus on provider health and wellness following all incidences.

J.B. Rimmel, MD, Chief Resident, University of Louisville School of Medicine, was available for questions.

In response to questions by Senator Buford, Dr. Peters stated that anything that can be done to help people realize that limiting access to firearms is crucial to saving lives. Schools should have programs that are part of the curriculum that can help individuals cope with and even decrease bullying and cyberbullying and enhance self-confidence, tolerance, and compassion.

In response to questions by Representative Jenkins, Dr. Peters stated that sometimes, a parent has a hard time seeing a mental health crisis in their children either because they do not really see the problem or they are in denial that a problem exists. His patients come from a family referral, pediatrician/primary care physician, and schools with suicide prevention screening. The more ways to help people begin to think about and identify risks, the more chance someone might seek care or treatment.

In response to questions by Representative Wuchner, Dr. Peters stated that as children grow and the brain develops, it is a time where children learn to be impulsive and take more risks causing them to be more susceptible to an impulse to commit harm to themselves. The study of suicide is a difficult subject, because it is hard to decide what stressor causes the breaking point in someone to occur. One easy way to help prevent suicide is to limit access to firearms. Individuals need to have access to mental health treatment services that could help prevent allot of suicides. Some states have laws where guns can be taken from an individual if mental health problems are identified.

Representative Moser stated that Trigg County has implemented a Sources of Strength program that

is a best practice youth suicide prevention project designed to harness the power of peer social networks to change unhealthy norms and culture, ultimately preventing suicide, bullying, and substance abuse. The mission of Sources of Strength is to prevent suicide by increasing help seeking behaviors and promoting connections between peers and caring adults. The program is a good approach and easy to implement.

Representative Marzian stated that it is not an issue about gun control but gun violence prevention and safety. Kentucky needs to enact legislation that will promote gun safety in the home.

Aging Issues Resolutions

2018 House Resolution 284, A RESOLUTION recognizing the importance of becoming an age-friendly Kentucky, Sponsor Representative Addia Wuchner.

Jeff Rubin, Positive Aging Advocate, Consultant on Aging and Community Issues, stated that the fastest growing age group is over 85 years of age. Data from The Commonwealth Funds and The SCAN Foundation indicate that Kentucky ranks 51st in affordability and access, 50th in choice of setting and providers, quality of life, and quality of care, 46th in support for family caregivers, and 42nd in effective nursing home transitions. In Kentucky, almost 81 percent of funds for senior and physical disability services is spent on institutional care. Kentucky ranks sixth in the nation for the number of grandparents raising their grandchildren. Currently, 75,000 children are living with and being cared for by one or more grandparents.

Age-friendly communities feature easy access to information and resources, active community involvement, and respect and social inclusion. Older adults can be a vital asset to communities and community development, contributing their experience, leadership, and often, economic participation. Those involved in supporting age-friendly communities include foundations, corporate sponsors, civic organizations, and GrantMakers in Aging. By 2030, one in five Kentuckians will be age 60 or older. The expected increases in demand for services will be extremely difficult, if not impossible, to sustain without a shift in current thinking or an infusion of substantial financial, social, and human capital. HR 284 promotes policies that make Kentucky cities and towns friendlier to the aging population, a focus which can benefit other demographics in the state. It honors the right of every individual to be treated with dignity and respect regardless of age, ability, station, or income. Kentucky needs to protect the safety and well-being of older people to be able to live out their lives without having to make a choice between food and medication, or without fear of becoming isolated and alone.

2018 House Resolution 283, A RESOLUTION encouraging the Cabinet for Health and Family Services to explore substance use disorder among older adults in Kentucky, Sponsor Representative Addia Wuchner.

Demetra Antimisiaris, PharmD, BCGP, FASCP, Associate Professor, University of Louisville School of Medicine, Department of Pharmacology and Toxicology, stated that according to the Henry J Kaiser Family Foundation State Health Facts 2018, in 2017, Kentucky's retail prescription drug sales per capita was an average of 20. Older adults comprise a higher percent of prescription drug sales than 20 to 34 year olds. The United States consumes 80 percent of the world's opioids and 99 percent of hydrocodone. The "baby boomers" are the largest population of aging people, and have a higher risk of substance abuse. National Household Survey on Drug Abuse (NHSDA) indicates the number of adults over the age of 50 with substance abuse problems will double to 5 million during the time period from 1999 to 2020. In 2020, approximately 50 percent of persons aged 50 to 70 will be in a high-risk group versus 9 percent in 1999. As people age, social support becomes more important. During the 1960s, there was an increase in the number of women who did not give birth, therefore, fewer women are less likely to have a social support system with adult children. Those with adult children are less likely to live in the same general area as their children. It is difficult to differentiate between substance use disorder (SUD) and geriatric syndromes, because SUD can look just like aging. Often no one notices, because many older adults live alone. Self medicating is a way to alleviate stress. Reward circuitry can overpower the use of substances and turn it into the abuse of substances.

In response to questions by Senator Julian Carroll, Dr. Antimisiaris agreed that older people need to stay active. Substance abuse, anxiety, and trauma are linked to every age because of a feeling of a lack of meaningfulness.

In response to a comment by Senator Meredith, Mr. Rubin stated that having the designation as an age-friendly Kentucky makes this an ideal place for tourism and ideal place for people to want to retire. Older adults need to be responsible for their life and wellbeing and staying active. Elderly citizens can still contribute and be mentors to people who are younger. There is a need to bring younger and older individuals together in order to help each other and learn to solve problems together. Local governments can be engaged in helping the elderly stay active. There needs to be a discussion to learn what needs to be done to improve the quality of life for older adults.

In response to comments by Senator Alvarado, Mr. Rubin stated that there need to be conversations between generations about things that impact them and their lives in wherever they live. There are cost-effective programs in place that serve the frail elderly and adult disabled and serve young people as well. The elderly should not be seen just as recipients of service but also as providers of service.

In response to a question by Senator Givens, Dr. Antimisiaris stated that there needs to be blue zones, livable communities for the elderly, and a sense of meaningfulness and community. Baby boomers do not

have the sense of community like generations before them. When the elderly get hooked on substance abuse, their social structures abandon them. There is an urgency to build medical detoxification centers for the aging boomers, because an elderly person is too medically ill to go through a detox program as an outpatient. The cost to care for the baby boomers is going to be enormous. If communities are more age-friendly, there will be aging boomers who are less isolated and have less cause to get into substance abuse. Medication problems are preventable.

Infectious Disease Issues

Katie Myatt, Infectious Disease Epidemiologist, Reportable Diseases Section Manager, Infectious Disease Branch, Department for Public Health, Cabinet for Health and Family Services, stated that Hepatitis A is a viral infection that affects the liver but is not a chronic infection like Hepatitis B and C. It is transmitted from person-to-person and by fecal matter. A person is infection two weeks before and one week after jaundice is detected. The incubation period is between 15 and 50 days, but typically only lasts 28 days. It is preventable if a person receives the vaccine shot. There are on average 20 Hepatitis A cases a year in Kentucky. In November 2017, Kentucky declared an outbreak of Hepatitis A with most of the outbreak-associated cases in Jefferson County. The risk factors were illicit drug use and homelessness. No contaminated food sources were identified and not attributed to any other known risk factors such as international travel. As of July 7, 2018, there have been 1,094 cases reported. Of those cases 628 were hospitalized, eight died, 63 percent were male, and the median age was 37 years of age. Food handlers only contributed to 7 percent of the total and 20 percent were in corrections and substance abuse treatment centers. The Department for Public Health (DPH) had multiple health advisories and resource materials were distributed to communities. The State Health Operations Center (SHOC) was activated and conducted daily response meetings and weekly multi-state calls with the CDC Epi-Aid Response Team who provided recommendations. Over \$1 million federal and state funds have been spent on 28,000 doses of the Hepatitis A vaccine. Approximately \$2,143,126 million was allocated to 31 local health departments and the Department of Corrections to purchase vaccines. Future steps include innovative strategies to teach the at-risk population, increased involvement with local correctional facilities and emergency rooms, and strategies for overcoming funding and personnel shortages.

In response to a question by Senator Buford, Captain Doug Thoroughman, US Public Health Service, Centers for Disease Control and Prevention Career Epidemiology Field Officer assigned as the Acting State Epidemiologist to the Department for Public Health, Cabinet for Health and Family Services, stated that while it is hard to determine the cause of the outbreak in Kentucky, homelessness, illicit drug use, and poor sanitation of drug users were contributing

factors. There is a religious exemption if a parent did not want their child vaccinated. Ardis Hoven, MD, Infectious Disease Physician, and Consultant to the Department for Public Health, Cabinet for Health and Family Services, stated that children are now required to be immunized for Hepatitis A before starting this school year. If there is a Hepatitis A outbreak in a school where a child has not been vaccinated and is at risk, the recommendation would be to take the unvaccinated child out of school until the outbreak is over. Captain Thoroughman stated that the Hepatitis A vaccination is required for school entry, so outbreaks in schools is rare.

In response to a question by Representative Bentley, Captain Thoroughman stated that there have been no identifiable food-borne outbreak in the current situation. The outbreak has been due mainly to homeless people and drug users.

Representative Wuchner stated that the outbreak has been alarming to communities and the food service industry and on the impact on the economy. The responsiveness by the cabinet has been wonderful.

In response to a question by Senator Kerr, Captain Thoroughman stated that the people that are most at risk if a food handler has contracted Hepatitis A are the other food handlers in the restaurants. The public is usually not at a high risk unless a food item is contaminated with the disease which can cause an outbreak. A Substance Abuse and Mental Health Services Administration (SAMSA) study reported that 19 percent of food service workers are drug users. In Kentucky, there is a lot of casual drug use in rural areas.

In response to a question by Representative Jenkins, Dr. Hoven stated that one dose of the vaccine would protect an individual 95 to 98 percent from being infected with Hepatitis A, but two doses will guarantee lifelong immunity. Captain Thoroughman said that one problem with the homeless population or drug users is getting the right information to be added to the immunization registry that would show if someone has had their first dose or not. Representative Bentley stated that if a local pharmacist gives someone a dose of the Hepatitis A vaccine, the pharmacist will call all those individuals in six months to remind them they are due for the second dose of the vaccine. Family members and caregivers of children that have been adopted from endemic countries need to be immunized.

In response to a question by Senator Raque Adams, Captain Thoroughman stated while the CDC has not recommended that everyone be vaccinated for Hepatitis A, but he and Dr. Hoven agree that everyone should get the vaccination.

Ms. Myatt said that in order to stop the Hepatitis A outbreak, the at-risk population has to be targeted in order to make a difference.

Captain Thoroughman stated that the Human Immunodeficiency Virus (HIV) is a viral infection that attacks the immune system. It is a chronic infection transmitted through blood and body fluid

exposure typically men who have sex with men and reuse of syringes. A long-term infection leads to Acquired Immunodeficiency Disorder (AIDS). Kentucky has a high rate of HIV and AIDS diagnosed concurrently. In November 2017, the DPH detected an increase in HIV cases in the Northern Kentucky Area Development District (NK ADD) with injecting drug use (IDU) as a primary risk factor. The Northern Kentucky District Health Department, Three Rivers District Health Department, and CDC were contacted, and a cluster investigation was initiated. Weekly calls were made between the DPH and the Northern Kentucky health department to review data about the total number of cases, risk factor, co-infections, and expanded interviews and specimen collection status. There was an enhanced statewide surveillance to make sure there were no new cases reported in other areas of Kentucky. The CDC conducted a site visit to Kentucky March 26, 2018.

In 2017, there were forty-six cases of HIV in the NKY ADD compared to 21 cases already reported as of mid-July 2018. In 2017, there were 21 HIV cases with IDU as a risk factor in NKY ADD with 14 cases already reported in 2018. Future steps to be taken include continuing investigation, enhance detection statewide for IDU, link cases to care, identify transmission patterns, and expand testing.

Representative Moser stated that there are 47 syringe access programs in Kentucky and these have become points for treatment, for testing, and for immunization. In response to a question by Representative Moser, Captain Thoroughman stated that the biggest way to identify individuals with HIV is through the interview process of contacts named by someone with HIV. Karen Sams, HIV/AIDS Branch Manager, Department for Public Health, Cabinet for Health and Family Services, stated that testing is available in every local health department in Kentucky. The cabinet has an information booth at statewide events such as the pride gay festivals to disseminate information and test individuals. Captain Thoroughman said that in individuals in a syringe access program in Northern Kentucky will be tested for HIV. Dr. Hoven stated that syringe access program is a fundamental way to prevent many infections and provides a way for individuals with substance abuse disorder to get referred to care. The state is in the process of looking at data from the syringe exchange programs to measure their effectiveness. Ms. Sams stated that in Kentucky in non-clinical settings, two HIV rapid tests are done to link infected individuals to immediate care.

In response to questions by Senator Buford, Ms. Myatt stated that some local health departments have enforced an ordinance to require food handlers to get a Hepatitis A vaccine, but the conflict is that food service as an occupation is not a risk. The risk of infection from a food handler is very low. Dr. Hoven said that only two percent of food handlers transmit the Hepatitis A infection through contaminated food. Although the state has done a remarkable

job of negotiating reduced rates for the vaccine, it can remain fairly expensive. A Medicaid patient's Managed Care Organizations (MCOs) provides the vaccine. Someone without health insurance would pay between \$75 and \$100 and then pay an additional amount for the booster in six months. Brandon Smith, Executive Director, Office of Legal and Regulatory Affairs, Cabinet for Health and Family Services, stated that the restaurant industry has partnered with the cabinet to get the word out about vaccinations. Some restaurants are providing vaccinations to employees at cost.

In response to a question by Senator Thomas, Dr. Hoven stated that the study on the syringe exchange programs is a collaborative effort between the Department for Public Health, the HIV Branch, and the Department of Medicaid Services. It is difficult to interpret some of the data, and she would not be able to give a date when the study would be finished. There are other infectious diseases which can be directly associated with substance abuse disorder and infectious diseases. The study will be forwarded as soon as it is finished.

Adjournment

There being no further business, the meeting was adjourned at 12:41 p.m.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 3rd Meeting of the 2018 Interim

July 19, 2018

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, July 19, 2018, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Perry B. Clark, Rick Girdler, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Stephen Meredith, Mike Wilson, and Max Wise; Representatives Lynn Bechler, McKenzie Cantrell, Jim DeCesare, Daniel Elliott, Al Gentry, Mark Hart, Joni L. Jenkins, James Kay, Kim King, Adam Koenig, Russ A. Meyer, Jason Petrie, Steve Riley, Rob Rothenburger, Diane St. Onge, Wilson Stone, Walker Thomas, Russell Webber, and Addia Wuchner.

Guests: Stacey Hoskins Beeler, Founder, SnapDolls, and owner, Stitch Kentucky; Frank Marx, Managing Consultant, Stitch Kentucky; Dr. Kate Akers, Executive Director, Kentucky Center Statistics, Kentucky Education and Workforce Development Cabinet; Deputy Secretary Brad Montell, Kentucky Education and Workforce Development Cabinet; Secretary Derrick Ramsey, Kentucky Education and Workforce Development Cabinet; Brian Alvey, Senior Director of Government and External Affairs,

Kentucky Distillers' Association; and Eric Gregory, President, Kentucky Distillers' Association.

LRC Staff: Carla Montgomery, Andrew Manno, Chip Smith, and Sasche Allen.

Approval of Minutes

A motion to approve the minutes of the June 21, 2018 meeting was made by Senator Mike Wilson, seconded by Representative Addia Wuchner, and approved by voice vote.

SnapDolls

Stacey Hoskins Beeler, Founder of SnapDolls, and owner of Stitch Kentucky, and Frank Marx, a Managing Consultant for Stitch Kentucky, gave a brief overview of the evolution of the company and possible expansion through future opportunities. When the business initially began in Casey County, Kentucky it produced fabric dolls inspired by paper dolls. It was able to do so after hiring displaced workers with extensive seamstress skills, some of whom had formerly been employed with the Oshkosh B'Gosh manufacturing plant that had closed in the county. Ms. Beeler said that after some time it was realized that others were in need of having products sewn which led to her starting Stitch Kentucky.

Stitch Kentucky works with entrepreneurs and uses their drawings, sketches, and prototypes to transform them into something that can be reproduced or manufactured. A substantial fee can be charged for the prototyping because of the demand for it. The company also cuts and sews products by using a pattern that either is developed there or by the entrepreneur themselves. Stitch Kentucky offers the production of large quantities as well as small quantities for its clients. For example, one client with the New York City Opera requested the production of 70 ponchos to be sewn, which is a relatively small number of units. Alternatively, the company was able to produce 5,000 draw string shoe bags for a shoe company located in Atlanta, Georgia. It has also sold 15,000 units of its own designed product to Cracker Barrel. The sourcing of materials for clients is also another unique aspect of the company which is uncommon. Moreover, Stitch Kentucky is currently testing housing and fulfillment of products for clients.

In the future, Ms. Beeler expressed that the company has considered a training program that would utilize various equipment that has the ability to cut patterns. By offering training programs, the company could provide employment opportunities to more displaced workers in the area, much like it did with those that worked for the Oshkosh B'Gosh plant. Manufacturers have also reached out to Stitch Kentucky and voiced interest in utilizing the company for their products such as a blue jean company in Louisville, Kentucky and a children's clothing startup in Lexington, Kentucky. The company is also working with student seamstresses that have reached out with the requests for training. Ultimately, Stitch Kentucky would like to expand to other areas of the Commonwealth that may have an abundance of individuals that have seamstressing skills. Mr. Marx

briefly discussed the progression of the company and a recent independent study that was done by the Community Farm Alliance and Fibershed which highlighted the resurgence of the textile industry in the state.

In response to a request from Co-Chair Kerr, Ms. Beeler said that her company quickly grew due to social media and word of mouth. She stated that requests were received from clients that wanted various products made such as car seat covers and bowties and came from individuals from places like New York City and Nantucket.

Senator Jimmy Higdon pointed out the entrepreneurial spirit and large online retail presence of the residents in Casey County. He also commended Ms. Beeler on her leadership and success.

Addressing Senator Max Wise, Ms. Beeler spoke about a new co-op program with Stitch Kentucky and the local high school in Casey County where students will spend part of the school day at the company being trained in seamstressing.

Responding to Representative Wilson Stone, Ms. Beeler stated that there has not been any resistance to the price of her company's services and Mr. Marx has advised her to increase the prices. She said she assumes that people would rather pay more for a better quality of product than to work with a company overseas whose quality may not always be as consistent. In response to a follow up, Ms. Beeler said there have been several times that Stitch Kentucky has had to turn down business due to a lack of equipment. There are currently also several clients that are raising funds in order to obtain their products after contacting the company for pricing.

After an inquiry from Representative Kim King, Ms. Beeler explained that a SnapDoll is a doll that has interchangeable clothing that snaps on and off. She said that Cortex Toys acquired the toy portion of her company.

Replying to Senator Stephen Meredith, Ms. Beeler discussed the sourcing aspect of the company and said that, as opposed to procuring fabric from overseas, she has found more and more companies located in the U.S. that are producing their own fabrics. For example, she utilizes fabrics manufactured by a U.S. based company called Santee Printworks that mills its own cotton. Senator Meredith went on to make comments about making the Commonwealth an age friendly state.

Kentucky Center for Statistics

Dr. Kate Akers, the Executive Director of the Kentucky Center Statistics with the Kentucky Education and Workforce Development Cabinet gave a presentation entitled "Uniting Our Data. Informing Our Commonwealth." Deputy Secretary Brad Montell with the Kentucky Education and Workforce Development Cabinet and Secretary Derrick Ramsey, with the Kentucky Education and Workforce Development Cabinet, answered questions. The Kentucky Center for Statistics, or KY Stats, started as a project known at the P-20 Data Collaborative with

one data researcher. There have been several name changes, including most recently the Kentucky Center for Education and Workforce Statistics (KCEWS), and it has 13 full-time researchers. KY Stats is a national model that was made possible through legislation in 2013.

The data collected by KY Stats allows for connections to be made between education, workforce, and economic development. Data is entered into one system from an array of areas such as the public school system, private and public post-secondary education institutions, and unemployment insurance and analyzed. Dr. Akers said that one of the most important aspects of the process is security which is why all information is sent to KY Stats securely and all personal identifiers are removed. She said that the goal is not to create the largest system but to produce meaningful reports and statistics to make real decisions in the state. For example, in the past statistics were gathered about the number of high school graduates across the state. Then the quality of the graduation rates were analyzed by collecting data on whether students were graduating with post-secondary credits. Dr. Akers explained that now all of that data along with many other statistics can be used to examine the impact on Kentucky's economy.

Several reports were discussed including the Kentucky Workforce Profiles Kentucky Future Skills Report, and the Education Detours to the Workforce Report which are available online at <https://kystats.ky.gov/>. The Kentucky Workforce Profiles are new reports that are done for each one of the state's 10 local workforce areas as well as the state as a whole. The report details various demographics of each area including population, commuting patterns, educational attainment, projected workforce demand, and key industry sectors. KY Stats can perform statistical modeling and offer projections for things such as the number of open jobs in the next five years and what industries those jobs will be in. Dr. Akers also said that after reviewing the reports and other information from the Cabinet for Economic Development moving forward two-thirds of jobs in Kentucky will require some type of training post high school. The next report discussed was the Kentucky Future Skills Report which is a supply and demand planning tool. The supply portion of the report provides statistics on the number of credentialed people in the 10 different local workforce areas as well as the state as a whole. In the last five years Kentucky has had a total of 460,566 people attain some type of credential, which includes education from a high school diploma to a doctoral degree. The demand portion of the report details what occupations will be available in the next five years, what the average wages are for each type of occupation, and what training and education is required. Dr. Akers went over one of the 13 new reports that KY Stats has available called the Education Detours to the Workforce Report, which delves into what happens when Kentuckians detour from the typical education-to-workforce pipeline.

Lastly, the Kentucky Work Ready Communities Report was briefly discussed.

Addressing Representative Diane St. Onge, Dr. Akers said that KY Stats has begun to collect data on early childhood education by working with the Early Childhood Advisory Council and starting a head start pilot this year. Collecting this data will allow for a better understanding of the impact of early childhood programs on things like graduation rates, post-secondary enrollment, and the eventual effect on the economy.

Responding to Representative Joni Jenkins, Dr. Akers spoke about a competitive grant that KY Stats received from the Workforce Data Quality Initiative with the Department of Labor. KY Stats is working with high school counselors to develop a user friendly tool that will show what occupations are available and where and how to obtain the necessary training for each occupation.

Replying to an inquiry from Representative Jim DeCesare regarding specific trades in the state, Dr. Akers explained that some occupations within various trades are still grouped fairly generally but she has requested that KY Stats receive more specificity within such as construction and advanced manufacturing. Representative DeCesare expressed the need for more training programs in the state in plumbing, specific areas of HVAC, and others.

Answering a question from Senator Jimmy Higdon, Dr. Akers said the indicators taken from the free and reduced lunch program in the public school systems are not intended for research purposes. KY Stats is working on a tool that can be used to examine education programs and how well they are serving students from various socioeconomic backgrounds.

Representative Steve Riley commented on reaching out to Dr. Akers and her staff to obtain statistical information regarding his district and how pleased he was with all the work that KY Stats does.

Representative Lynn Bechler inquired about statistics regarding graduation rates and what students are likely to do after high school since legislation was passed that now requires a student to be 18 years old upon graduating from high school, and Dr. Akers said that KY Stats is able to provide that data.

Dr. Akers addressed Representative Addia Wuchner by explaining that KY Stats receives information from private third parties but before analysis takes place all personal indicators are removed, which is a process that only takes a matter of hours depending on the size of the data.

Secretary Derrick Ramsey told Senator Mike Wilson that he would look into whether the age requirements to obtain a CDL is a state or federal issue and that others has expressed the need for CDL drivers.

Secretary Derrick Ramsey replied to concerns voiced by Representative Rob Rothenburger by saying he would look into the transportation issue within the local workforce areas for those located in rural areas that have trouble getting to and from the more urban

areas where high demand jobs are located.

Kentucky Distillers' Association

Brian Alvey, the Senior Director of Government and External Affairs with the Kentucky Distillers' Association (KDA) and Eric Gregory, the President of the KDA, gave testimony pertaining to the recent tariffs that the federal government of the United States has put in place and the possible effects it could have on their industry in particular. Mr. Alvey stated that due to the tariffs other countries have begun to put into effect retaliatory tariffs which will have a major impact on the bourbon and distilled spirits industry in the Commonwealth. There have already been measures taken by the European Union (EU), Canada, China, and Mexico as a response to the Administration imposing tariffs on their goods in those areas. An economic impact study done in 2016 showed that bourbon and distilled spirits is an \$8.5 billion industry in Kentucky that employs over 17,500 people with \$800 million in payroll and \$825 million that is paid in local, state, and federal taxes. Mr. Alvey said that the industry is currently in the middle of a \$1.25 billion building expansion that includes improvements to current locations and business and new visitor centers. The Kentucky bourbon and distilled spirits industry had an estimated \$450 million in exports worldwide in 2017.

With over 50 distilleries across the state, the effects of the new tariffs will effect each business in the industry differently and it is very difficult to make any predictions of potential effects due to the infancy of the new regulations and with circumstances changing daily. For example, Mr. Alvey said that the EU and Japan signed a trade deal in the previous week that decreased the tariffs that the two countries share by 99%, which he believes is a direct response to the United States imposing tariffs on their countries. The KDA has expressed its concerns to the Administration, Congressional leaders, and members of the General Assembly and will keep all of the aforementioned informed when it starts to see the any negative effects on the bourbon and distilled spirits industry in Kentucky.

Mr. Gregory reiterated earlier comments made by Mr. Alvey by thanking the General Assembly for legislation that has been passed in the past 10 years that has tripled the economic output, doubled the workforce, and doubled the payroll of the bourbon and distilled spirits industry in the Commonwealth. He expressed his frustrations about the recent tariffs that could potentially derail the success that the industry has had in recent years. He gave the reminder that the bourbon and distilled spirits industry is currently the highest taxed industry in Kentucky and increasing taxes even more could have detrimental results that could eventually effect other industries such as farming, steel, transportation, or hospitality. Congressman Andy Barr was able to set up a meeting between the KDA and Vice President Pence to discuss the issue. Mr. Gregory closed by announcing a summit with industry counterparts from around the

world in Louisville, Kentucky to further deliberate about imposed tariffs.

Addressing Representative James Kay, Mr. Gregory stated that the distilled spirits exports have gone up by over \$1 billion in sales and Kentucky bourbon makes up about half of that amount. The EU is the largest export market and has an average increase of 10 percent yearly. He said adding a 25 percent tariff on the EU has the potential to be extremely harmful to the industry's growth which comes at a time when the international market is just now being tapped into.

Mr. Alvey replied to a question from Senator Mike Wilson saying that, due to 2018 House Bill 400, which allows distillers to ship products directly to consumers, UPS is testing intrastate shipping but will move to interstate shipping in the future. He said because of the recent tariffs the passing of HB 400 may be more advantageous than KDA initially realized. There is not currently any data because the bill is just becoming law. Mr. Gregory said that KDA has been working with the Uniform Law Commission regarding standardizing the shipping laws of alcohol. In response to a follow up question about if the distillery shipping products to other countries is responsible for collecting the imposed tariffs, Mr. Gregory said that each business will be different and that issue is being considered by all parties.

Representative Wilson Stone said that the tariffs have already taken a toll on farmers who produce soy beans and corn and that the farming community has begun to prepare for further negative results. Mr. Gregory said that the worst case scenario is unknown but if sales overseas plummet the impact could affect the farming community or even the public school systems in different counties because there will not be as many funds in taxes collected. He said some of the smaller distilleries and business could most definitely be impacted if there is a loss in sales or investment.

Replying to Senator Stephen Meredith, Mr. Gregory said members of the industry did not foresee being in the current position of collateral damage due the free trade agreements that have taken place in previous years that opened up the market. Nationally, Kentucky is eleventh in the country for the number of total distilleries with 95 percent of the country's volume. There were not planned contingencies for a situation of this magnitude because of the growth of the Kentucky industry nationally and globally.

Senator Jimmy Higdon commented that his district of Nelson County stores one-third of the world's bourbon and that a negative impact on the bourbon industry could create a ripple effect that could impact a large number of jobs across the spectrum.

Senator Denise Harper Angel stated that she was grateful of the summit being held in her district of Louisville and appreciative for all of the work of the KDA.

There being no further business before the committee, the meeting was adjourned at 12:01 p.m.

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

Minutes of the 2nd Meeting of the 2018 Interim

July 19, 2018

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, July 19, 2018, at 1:00 PM, 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 Ernie Harris, Stephen Meredith, and Max Wise; Representatives Linda Belcher, John Blanton, Larry Brown, George Brown Jr, John Carney, Jeffery Donohue, Robert Goforth, Jim Gooch Jr., David Hale, Angie Hatton, Kim King, Michael Meredith, Charles Miller, Rick G. Nelson, Sannie Overly, Melinda Gibbons Prunty, Brandon Reed, John Sims Jr, and Jill York.

Guests: Tyler Madison, Office of Agricultural Marketing; Bryan Alvey, Senior Director of Governmental and External Affairs, Kentucky Distillers' Association; Adam Johnson, Senior Director of Kentucky Bourbon Trails, Kentucky Distillers' Association; Eric Gregory, President, Kentucky Distillers' Association.

LRC Staff: Carla Montgomery, Andrew Manno, Chip Smith, and Emma Mills.

Drink KY

Tyler Madison, Office of Agricultural Marketing in the Department of Agriculture, introduced Drink KY, a mobile phone app created by the Grape and Wine Council, which is part of the Kentucky Department of Agriculture. The Grape and Wine Council was created by the General Assembly in statute 260.165, which states that the council is created to promote and facilitate the development of a grape, grape products and wine industry. Since 2007, the council has received \$400,000 from the General Fund.

Mr. Madison reviewed a short history of Kentucky's wine industry, pointing out the first commercial winery in the United States was in Kentucky, located in modern Jessamine County. By 1970, Bracken County was producing more wine than any other county in the United States. Prohibition devastated the wine industry in Kentucky until 1976 when legislation passed to allow wineries to operate again.

In 2013, the Grape and Wine Council created the first app for visitors to track wineries attended, similar to a paper passport, but due to limitations of the platform, the council was advised it would be cheaper to create a whole new app to achieve their goals. The council also invited the Kentucky Guild of Brewers to

participate in the app.

The Drink KY app defaults to a map view of all listed wineries and breweries in the area, which include name, hours of operation, and a description of the facility. Once an app user is located within a tasting or tap room, the option to check-in becomes live for use. The user can receive prizes or discounts to checking in to multiple tasting or tap rooms. The app also indicates whether or not a winery or brewery belongs to the Winery Association or the Guild of Brewers, respectively. Mr. Madison shared some of the promotional signs located in the regional airports to promote interest in the app. While the app launched in 2017 with a couple of updates and is already averaging around 850 monthly active users and about 9,500 check-ins.

Responding to a question from Senator Harris, Mr. Madison indicated the Department of Agriculture began tracking how many grapes grown in Kentucky are actually used in the production of wine in Kentucky. He indicated about 30% of the grapes used in Kentucky wine is actually grown in Kentucky. In response to an additional question by Senator Harris, Mr. Madison discussed the requirements for some of the wines entered in competitions sponsored by the Kentucky Department of Agriculture. Specifically for the Commissioner's Cup, all wines entered must be comprised of at least 75% of Kentucky fruit.

Kentucky Bourbon Trail

Bryan Alvey, Senior Director of Governmental and External Affairs, Kentucky Distillers' Association; Adam Johnson, Senior Director of Kentucky Bourbon Trails, Kentucky Distillers' Association, and Eric Gregory, President, Kentucky Distillers' Association presented updates on the Kentucky Bourbon Trail and the bourbon industry in general. Mr. Alvey thanked the General Assembly for their continued support through SB 11, HB 100, HB 183 and HB 400. Adam Johnson then introduced the Kentucky Bourbon Trail's backstory, indicating the trail is almost 20 years old.

Kentucky Bourbon is now an \$8.5 billion industry, generating as many as 17,500 jobs, \$800 million in payroll, \$825 million in tax revenue and \$1.2 billion in capital investments. The Kentucky Bourbon Trail had 1, 194, 233 visitors in 2017, 70% of which were from outside of Kentucky. Of those out-of-state visitors, 75% stay in Kentucky overnight, with the average out-of-state group spending between \$400 and \$1200 during their trip.

New additions to the Kentucky Bourbon Trail include Old Forester (Louisville), Michter's (Louisville), Lux Row (Bardstown), O.Z. Tyler (Owensboro), Bardstown Bourbon Company (Bardstown), and Jeptha Creed (Shelbyville). Mr. Johnson went on to talk about some of the positive press the Kentucky Bourbon Trail has had lately.

The Kentucky Distillers' Association (KDA) has created a Responsibility Advisory Group to emphasize the importance of drinking responsibly and establishing best practices for visitor centers,

events and marketing. Mr. Johnson points to four focus areas: safe rides, underage drinking, responsible consumption, and respect for non-drinkers.

Mr. Brian Alvey discussed how Kentucky ranks in several categories compared to other states. Kentucky is currently ranked 11th in the U.S. in operating distilleries. Distillers currently pay 7 separate taxes on each bottle of spirits in Kentucky, equaling 60% of every bottle of spirits in Kentucky goes to taxes. Mr. Alvey asks that the legislators keep that in mind when the 2019 Session begins. Mr. Johnson notes that recent legislation has really helped the Kentucky Bourbon Trail expand in its experience, such as letting tourists ship spirits out of state, being able to add restaurants to distilleries, and offering cocktails and consumable drinks with tours.

Mr. Eric Gregory, President of the Kentucky Distillers' Association, talked about the use of Intellicheck, an ID checking system that flags fake and expired IDs, in all of the distilleries on the Kentucky Bourbon Trail. He emphasized the efforts to cut down on drinking and driving, such as offering free rides through Lyft over high traffic holidays, including over 1,000 free rides over the 4th of July holiday.

Representative Donohue asked for clarification on a slide in the presentation concerning Kentucky's tax rate on spirit sales in comparison to surrounding states. Mr. Gregory explained for a \$12.00 bottle of spirits sale, Kentucky has an implied tax rate of \$7.54. In comparison, the same \$12.00 bottle of spirits would have a much lower tax rate in West Virginia, Missouri, Tennessee, and Indiana. Kentucky is only one of two states (including South Dakota) that has a wholesale tax on bottles of spirits. The \$7.54 includes the wholesale tax, sales tax and an excise tax. This tax rate does not include the state barrel tax.

In response to a question from Senator Wise, Mr. Johnson clarified that the Kentucky Bourbon Chase, a yearly overnight team relay run through Central Kentucky, is run by a different organization from the KDA, although many distilleries on the Kentucky Bourbon Trail participate in the event. The event brings in about 5,000 people per year. Senator Wise also asked about the Kentucky Owl Distillery, a new complex located in Bardstown which is owned by the Stoli Group. Mr. Gregory explained the impact the facility will have on the Bardstown area with the \$150,000,000 investment by Stoli.

Chairwoman Kerr asked Mr. Gregory to expound on another event offered by the KDA, Bourbon Fantasy Camp. This event hosts a few thousand people from across the country to spend a week in Louisville participating in bourbon related activities, including time spent with master distillers, bottling your own bourbon, gourmet meals and an auction selling private barrel selections to raise money for charity.

Responding to a question from Representative King, Mr. Gregory explained some about the Barton distillery collapse in Nelson County, but noted that Barton Distillery is not a member of the KDA and

the distillery was working with state officials to work through the collapse.

In response to a question from Representative Belcher, Mr. Gregory confirmed that Jim Beam is indeed a member of the KDA.

Chairwoman Kerr asked for the web address for the Kentucky Distillers' Association, which is www.kybourbon.com.

Responding to a question from Senator Meredith about what the General Assembly can do to help the bourbon industry going forward, Mr. Alvey talked about the KDA's desire to focus on the responsibility aspect of the bourbon industry in the 2019 Session of the General Assembly. Mr. Alvey emphasized how seriously the KDA takes responsibility for patrons and drinking responsibly.

In a response to Representative George Brown, Mr. Gregory discussed the impacts of the federal tariffs impacting the bourbon industry in Kentucky. Mr. Gregory explained the KDA has reached out to key members of Congress and Vice President Pence to make sure they understand the impact retaliatory tariffs will have on the bourbon industry. The KDA is concerned about the long term impact of a diminished foreign market. They have no numbers yet since the tariffs have only been recently implemented, but Mr. Gregory indicated that if retaliatory tariffs were to go one for months, or were it to escalate, the bourbon industry could be severely affected. Representative Gooch explained some of the reasoning behind the federal tariffs and how the U.S. imposed tariffs on foreign aluminum directly affects his district in Western Kentucky. He acknowledged it is a complicated issue and voiced his support for the bourbon industry as one of Kentucky's signature industries.

Representative Blanton asked it be noted that Representative Fugate was absent from the meeting due to personal illness.

The August meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology will take place August 16th, 2018 in Room 131 of the Capitol Annex in Frankfort. The September meeting will take place in Covington Kentucky, time and place to be determined.

There being no further business, the meeting was adjourned at 2:01 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 1st Meeting of the 2018 Interim

July 20, 2018

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Agriculture was held on Friday, July 20, 2018, at 10:00 AM, in Bardwell, Kentucky. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair;

Representative Richard Heath, Co-Chair; Senators Stan Humphries, Dennis Parrett, Dorsey Ridley, Robin L. Webb, and Whitney Westerfield; Representatives Myron Dossett, Derrick Graham, Mark Hart, James Kay, Kim King, Jason Petrie, Steven Rudy, Wilson Stone, Walker Thomas, and James Tipton.

Guests: Dr. Tony Brannon, Dean, Hutson School of Agriculture, Murray State University; Jai Templeton, Commissioner, Tennessee Department of Agriculture; Dean Didato, Partner, Innova Ag Innovation Fund IV; Grant Norwood, farmer, Norwood Farms; Todd Cooper, County Judge/Executive, Ballard County; Greg Terry, County Judge/Executive, Carlisle County; Kenny Wilson, County Judge/Executive, Hickman County; Jim Martin, County Judge/Executive, Fulton County; Greg Curlin, Director, Hickman-Fulton County Riverport Authority; Bill Miller, Executive Director, Paducah-McCracken County Riverport Authority; and Larry Klein, Board Chairman, Alexander County/Cairo Port Authority and General Manager, Cairo Public Utilities.

LRC Staff: Kelly Ludwig, Nathan Smith, and Susan Spoonamore, Committee Assistant.

Panel Discussion on Investment Opportunities in Agriculture Innovation.

Dr. Tony Brannon, Dean, Hutson School of Agriculture, Murray State University (MSU), explained that Tennessee, Missouri, Arkansas, and Kentucky formed West Kentucky Agriculture Bioworks (WKAB) to help fund agriculture innovation. The most significant accomplishment of WKAB was receiving a \$309,000 grant from the Tennessee Valley Authority (TVA). Murray State used the money to install a biomass heating system in the equine barn.

Jai Templeton, Commissioner, Tennessee Department of Agriculture, stated that Tennessee and Kentucky have many similarities in their agricultural industries. The Tennessee Department of Agriculture partnered with Memphis Bioworks in 2012 to develop the Ag Launch Program. The program was designed to determine what Tennessee agriculture might look like in the future. Two incentives identified were Ag Entrepreneurship and Ag Innovation. Another program that was developed was the Governor's Rural Task Force, co-chaired by the Commissioner of Agriculture, Commissioner of Economic Community Development, and Commissioner of Tourist Development. The purpose of the task force was to identify distressed agricultural counties whose economies were struggling. Nineteen counties were declared as distressed.

Commissioner Templeton said that Ag Launch began working with model farmers to help with cost-sharing to fund innovative agriculture tech startups. Ag Launch and the private sector do the work and shoulder most of the investment. There is also funding from the Tennessee Ag Enhancement Program to continue developing opportunities for Tennessee farmers. The goals are to give progressive-

minded farmers a leading edge on new technology and a position of ownership and to develop economies around the technology in rural Tennessee. Agriculture is the number one industry in Tennessee, with an \$82 billion economic impact, or about 13 percent of Tennessee's economy. Another programs derived from Ag Launch was Ag Launch 365, which is a cohort type of program that develops mentoring avenues to finance. There is also a boot camp in which companies learn about government, other industries, and those involved in financing start-up companies.

Commissioner Templeton explained that the Tennessee Ag Enhancement Program is a result of the tobacco settlement money and a tobacco tax increase. Of the tobacco tax collections, the Tennessee Department of Agriculture receives the first \$21 million; the remainder of the tax dollars are allocated to the Department of Health and Education.

Dean Didato, a partner in Innova Ag Innovation Fund IV, a private venture capital firm nestled within the Memphis Bioworks Foundation, said that having capital to provide to early start-up companies is critical to the success of companies. Innova Memphis was formed in 2007 and has two partners and a senior analyst. Innova Memphis has four funds totaling approximately \$80 million. The fourth fund, the Innova Ag Innovation Fund has been running for thirteen months and is a United States Department of Agriculture (USDA) Rural Business Investment Company licensed fund. This license entitles the Innova Ag Innovation Fund to seek funds from banks and other private organizations to invest in high risk investments of early stage companies. Since last May, the Innova Ag Innovation Fund had raised \$31 million, of which \$2.4 million was invested in 11 companies. The fund invests in technologies that could significantly help farmers with their operations. The firm offers assistance for legal work, patents, Business 101, Agriculture 101, finance, and other issues that may arise. *Fortune* magazine listed Innova Ag Innovation Fund as the seventh best fund for seed financing in America.

Mr. Didato explained that Ag Launch 365 includes pilot projects during the summer months and works one-on-one with farmers. Grant Norwood, Norwood Farms, Henry County, Tennessee, stated that he farms 3,000 acres of row crops that require five irrigation systems. Through Ag Launch 365, his farm has been testing two different irrigation systems from different companies. The systems have in-ground sensors, which provide information such as ground temperature and when and how much water is needed to optimize crop yields. Higher crop yields mean more money to keep the farm profitable. Mr. Norwood said that he can manage one of the irrigation systems through an app on his cell phone, and the other system is managed through texts and emails.

In response to Senator Hornback, Mr. Norwood stated that one pivot has five sensors and it irrigates 180 acres. Before placing the sensors, he sends a soil

map to the companies, which choose where to place them. The goal of using this technology is to conserve water and increase yields.

Discussion on the Importance of Ports and Waterways to Kentucky Agriculture

Greg Terry, County Judge/Executive, Carlisle County, introduced Larry Klein, Board Chairman, Alexander County/Cairo Port Authority and General Manager, Cairo Public Utilities. Mr. Klein stated that they had received a significant grant from the State of Illinois to improve ports and waterways. Illinois, Kentucky, Missouri and Tennessee had joined to promote the importance of ports and waterways. None of those states is capitalizing on the importance of the waterways for moving agriculture products, and thus none is receiving the benefits.

Kenny Wilson, Hickman County Judge/Executive explained that 91 percent of the land in Hickman County is used for agricultural purposes, especially for growing corn. Hickman County is interested in having a port to ship soybeans and corn. It would not take that much money or equipment to make it possible. Hickman County would like to see the construction of a processing plant.

Bill Miller, Executive Director, Paducah-McCracken County Riverport Authority stated that the Cairo Port is one of the hottest spots for economic development. Over 70 percent of the population in the United States can be reached in a day's drive. The goal is to see a port system running between Tennessee and Lyon County.

In response to Representative Tipton, Mr. Miller stated that, since 2014, about roughly \$7 million had been spent improving the Paducah-McCracken County Riverport, including the purchase of a new material handler and a crane capable of lifting 53 tons. In 2016, a new crane, capable of lifting some containers, had been purchased for Fulton County. Concrete had been laid to handle large containers. If a marine highway grant materializes, then the Port of Paducah could acquire equipment. The Port has been able to acquire foreign trade zone status for the Kentucky area. The Port Authority applied for a grant; if received, the grant would be used for the first phase of a \$27 million construction project. The Paducah-McCracken County Port Authority asked the federal government to help with the first phase. As to the infrastructure for the waterways, Mr. Miller said that the Authority only receives \$500,000 from the Kentucky General Assembly, which has to be voted on bi-annually, for its eight ports. The Authority does not receive highway funds.

Greg Curlin, Director, Hickman-Fulton County Riverport Authority, said that the Coast Guard, a ferry, and the Elvis Stahr Harbor are at Hickman. Agriculture companies and grain companies utilize the Riverport. There were approximately 15 million bushels of grain that shipped from the port in 2017. Everything is done on a limited budget and through fees that are charged for loading and unloading. Being on the Mississippi River requires dredging; the

Authority works closely with the U.S. Army Corp. of Engineers to keep the river open for business. Hickman-Fulton County Riverport Authority receives infrastructure money from the general budget which helps, but it is a challenge to maintain an operational port.

Representative Rudy stated that Paducah is the river hub of the world.

Mr. Miller stated that it is difficult to find the 20 percent match funds that are required to be eligible for federal dollars. More money from state and local entities could help toward qualifying for federal money.

In response to Senator Humphries, Mr. Curlin explained that Hickman monitors flood control, water levels, dredging, and navigation. The main thing is to keep the flow of materials coming and going. The total weight of exports leaving the harbor is 1.3 million tons, which is substantial for a small harbor. Hickman is preparing for the day when grains will be shipped via containers instead of a bulk barge. The Hickman-Fulton County Riverport works with the Army Corp of Engineers out of Memphis to develop a budget for the cost of maintaining and dredging the harbors. The key is working with Kentucky's officials in Washington, D.C. regarding what gets dredged. Some local funds from the Water Transportation Advisory Board are used to dredge areas not maintained by the Army Corp of Engineers.

In response to Senator Webb, Mr. Miller said there are three phases that total \$27 million. The first phase mostly affects pouring concrete to provide a place for containers. The increase in manufacturing should generate enough money to pay for phases two and three. There is a lot of volume that ships from the Kentucky region.

Senator Hornback stated that these projects are important to all of Kentucky's waterways.

In response to Representative Stone, Mr. Miller said that the city, county, and Paducah-McCracken County Riverport own the port facility. Mr. Curlin stated that the port boards usually make most of the decisions, but they work with the mayors and county judges to manage what is done. Board members are selected by the counties and cities. Port fees are uniform for the area. The mayors and county judges are continually working with state officials to get funding to maintain infrastructure.

In response to Representative Graham, Mr. Miller said that other states like Missouri are putting up \$3 million to maintain their riverports. Indiana invests a lot of money to support its ports and programs. Riverports provide a service to the communities and create economic development. Mr. Curlin stated that the port board in Hickman-Fulton County does not appropriate money for the riverport. The Owensboro Riverport supports the city with its funds. Kentucky riverports just need money to maintain and grow.

Representative Webb requested that the committee be updated on the Cervid Chronic Wasting Disease as it affects the deer population.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 1st Meeting of the 2018 Interim

July 20, 2018

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, July 20, 2018, at 10:00 AM Central Time, at Ellis Park in Henderson, Kentucky. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Guests: Steve May, Marc Guilford, Kentucky Horse Racing Commission; Ron Geary, President, Ellis Park Racing Course; Dan Gerrity, President, Saratoga Harness Racing, Inc.; Elisabeth Jensen, Executive Vice President, Kentucky Equine Project; Chauncey Morris, Executive Director, Kentucky Thoroughbred Association; Patrick Neely, Chief Development Officer, Exacta Systems; Anne Sabatino Hardy, Executive Director; Horse Country, Inc.; Dr. Brian Houillion, Chief of Staff, Department for Local Government; Rick Johnson, Vice President, Kentucky Science and Technology Corporation.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Adam Johnson.

Minutes

Due to lack of a quorum, the minutes were passed over.

Welcome to Henderson County

Robby Mills, Representative, House District 11, thanked the committee for coming to see a great entertainment center in Henderson County and thanked Mr. Geary for his efforts with the facility.

Suzanne Miles, Representative, House District 7, welcomed the committee and thanked the horse industry and trainers who work at this facility.

Welcome and Introduction

Ron Geary, President, Ellis Park Race Course, thanked everyone for coming to Ellis Park. He said it had been an honor to run the park for the last twelve years after purchasing the property from Churchill Downs. In his time as president, purses increased from \$130,000 to \$230,000. He thanked Kentucky Downs, Historical Horse Racing, and the Kentucky HBPA (Horsemen's Benevolent and Protective Association). When these groups work together, good things happen for horse racing.

The sale of Ellis Park to Saratoga Harness Racing, Inc. was a hard decision that effectively began his retirement. Saratoga bought 30 percent of the raceway six years prior to the sale. Since then, they have worked through many operation and growth issues together. This includes expanding into Historical Horse Racing. He is pleased to pass the baton an

entity such as Saratoga.

Dan Gerrity, President, Saratoga Harness Racing, Inc., thanked Chairman Schickel and Chairman Koenig for having the meeting at Ellis Park. He has enjoyed working with Ron Geary and hopes to continue making Ellis Park better.

Senator Thayer thanked the chairs for having a meeting at Ellis Park, saying that it is important to realize that there is more to horse racing than Churchill Downs and Keeneland. There have been great horses at Ellis Park, including Looking at Lee who was second in the Kentucky Derby last year. He thanked Ron Geary for purchasing the track from Churchill Downs and for the work he has put into it.

In response to a question by Senator Thayer, Mr. Gerrity said that Saratoga has a team of eight staff currently reviewing the entire park. He expects to be spending capitol on future improvements.

Senator Thayer shared the concerns of the HBPA in some of the park's facilities. He requested that Saratoga take a serious look at improving those facilities' conditions.

Impact of Horse Racing Industry in Kentucky

Elizabeth Jensen, Executive Vice-President, Kentucky Equine Education Project (KEEP), stated that KEEP advocates for issues that affect the Kentucky horse industry. Most people only think of the horse industry in this state during the big days, but there are \$23.4 billion of horse industry assets in Kentucky. It brings in \$1.6 billion annually, and it has a ripple effect into hay, feed, and other supplies of \$2.7 billion. The industry also brings in \$5.2 billion of tourism money every year.

An example of the horse industry impact is American Pharaoh, generating \$2.7 million in taxes from his stud fees. Also, there are many equine veterinarians in the state, and pari-mutual gambling in the state has been increasing. There are over 242,000 horses in the state, with a variety of purposes and breeds. The industry employs 44,000 workers and 64,000 indirect jobs. It is the number one impact on Kentucky's economy as a whole.

KEEP is working to implement the Kentucky Chamber of Commerce Talent Pipeline. This is a program made possible by a grant from the US Chamber of Commerce that aims to develop workers for key industries in each state. The Kentucky Chamber has agreed to make the equine industry one of those targeted industries. The first step of the program is to organize employer collaboratives. There will be collaboratives for farms, trainers, sales and consigners, and veterinarians. The second step will be asking these groups about their needs and determining how to attract workers. The third step will be to better understand the industry's required competencies and specialties. This will include speaking with universities to better understand how to recruit their students.

The complete roll-out of the pipeline will occur from 2018-2020. Five project managers will be hired to facilitate the program; three have already been

hired. There will be 20 individual champions across the targeted industries that will interact with the project managers directly.

In response to a question from Chairman Koenig, Ms. Jensen said that an example of an industry shortage is with trainers who do not have sufficient handlers and must therefore turn away horses. Chairman Koenig said that this shows the need for a year-round circuit in Kentucky, and Ellis Park is important in keeping year-round work available.

Chauncey Morris, Executive Director, Kentucky Thoroughbred Association, reported on the state and national impact of the horse industry, emphasizing the importance of how it effects Kentucky jobs. There have been 13 Triple Crown winners, ten of which were from Kentucky. Kentucky has been an important part of national horse racing.

Historical Horse Racing is an important part of modern horse racing, providing funds to the Kentucky Thoroughbred development fund. The impact of HHR is shown in the increase of the payout to Kentucky bred horses from 78 percent in 2010 to 87.4 percent in 2017. Kentucky is third in the pari-mutual handle on horse racing. Many states have contracted while Kentucky continues to rise.

In response to a question from Chairman Koenig, Mr. Morris said that Florida pari-mutuel sales have contracted while New York and California remain ahead in handle.

Patrick Neely, Chief Development Officer, Exacta Systems, said that pari-mutual Historic Horse Racing was the horse industry's response to casino gaming eating into their profits. It was a solution that was industry driven, and they use a database of 90,000 past races which are then bet on by the player. Historical horse racing (HHR) has led to a revival of the horse racing industry in other states, which also helps the Kentucky market. Virginia legislators cited Kentucky as inspiration for their recent laws on HHR.

Historical horse racing has helped increase the breeder incentive fund from \$3 million to \$9 million. HHR represents 11 percent to 12 percent of all horse race wagering. Exacta Systems handles \$1.2 billion of HHR wagering. Churchill Downs is opening its 900 terminal system soon.

In response to a question by Senator Bowen, Mr. Neely said litigation is still pending on HHR. The racetracks and KRC asked for a declaratory judgement that the regulations could be promulgated. The case has been returned to Franklin Circuit Court, which will decide whether the system is actually pari-mutuel in nature. Exacta System has gone through this, but there has been no ruling at this time. The other two pari-mutuel HHR systems on the market will need to eventually go through the same process. Mr. Neely said he is confident that all systems will meet that judicial muster.

In response to questions from Senator Seum, Mr. Neely said that, under Kentucky regulations, the HHR race must meet certain parameters. It has to have taken place at a licensed United States race track.

Exacta has a database of 90,000 US horse races. All of them have ten-horse fields and ended with an official order of finish in which horses crossed the finish line. These are the races patrons are betting on.

The benefit of HHR has been its ability to save the industry in many states. It was developed by the industry. HHR has been attractive to both horse racing fans, allowing the bettor to handicap horses, and electronic gaming fans. In that way, it brings new audiences to horse tracks who otherwise would not be there.

In response to a question from Chairman Koenig, Mr. Neely said some states are using statutes and some are using regulations to implement HHR. Both have worked. Whether to use statute or regulation is a policy decision.

Chairman Koenig said that he fully supports the HHR regulations, and he is interested in seeing them moved to statute because of the amount of money being invested.

Anna Sabatino Hardy, Executive Director, Horse Country, Inc., said that Horse Country is a member-based organization that promotes the equine industry through tourism activities at member locations. The organization began in 2014 with 22 members and now has 39 members. The goal is to connect guests to the horses, lands, and people through experiences that inspire a love for the animal and Kentucky. The company has sold 86,000 tickets for a revenue of \$2 million. Thirty percent of the guests are from Kentucky, while 70 percent are from outside the state. An out-of-state visitor typically spends 2 to 6 days in the state.

Senator Gentry said that the horse industry has taken inspiration from the bourbon industry, and it has brought a lot of visitors to the state of Kentucky. He thanked all of the presenters.

Federal Grant Concerning Licensing Requirements for Veterans

Bryan Houillion, Chief of Staff, Department for Local Government, said his department had secured two grants to study licensing in the state. The department has four goals to achieve with the grants:

Understand how Kentucky licenses professions and occupations and whether the model works. If it does not work, the department will evaluate models that may work better. This goal is important due to a recent court case about licensing boards needing oversight;

Find a way to make licensing boards more efficient;

Implement practices to remove impediments for four veterans, people with past criminal records, legal immigrants, and the chronically unemployed, which are all underemployed groups; and

Focus on increasing the portability of licenses through reciprocities and compacts with other states.

The second grant is \$450,000 spread over three years. The department will hire a project manager to

facilitate joining more licensing consortiums.

Richard Johnson, Vice President, Kentucky Science and Technology Corporation (KSTC), said his organization works to match local businesses with federal contracts. The future aim is to be an intermediary for matching employers with future employees, focusing on college students, high school students, and veterans. The company aims to use the new VALFLO (Veteran Accelerated Learning for Licensed Occupations) grant to specifically target veterans. Regardless of the skillset required by an employer, there is a veteran leaving the service with a skillset that would meet the need. KSTC has partnered with community colleges statewide, the University of Louisville, and the Kentucky Commission on Military Affairs to facilitate the aim. KSTC chose 35 licensed occupations to research and better understand the gaps between veterans returning from their service and these licensed occupations.

In response to a question from Senator Seum, Mr. Johnson said drivers who have left the military are only certified on automatic shift trucks; the lack of accreditation for manual transmission trucks is an impediment to a CDL. A 30 day course is necessary to adequately train in this regard, and simulators are being purchased by community colleges. The best of those programs is at Hopkinsville Community and Technical College.

In response to a question by Representative Burch, Mr. Johnson said the first focus of the program is improving these gaps for veterans. This is being done through job fairs, but KSTC hopes to use the grant to hire employees to visit the bases. KSTC is in the planning phase on this project.

Chairman Koenig expressed appreciation to the administration for working to obtain the grants and join the consortiums.

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 2nd Meeting of the 2018 Interim

July 26, 2018

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 26, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. 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, Rick Girdler, David P. Givens, Morgan McGarvey, Dennis Parrett, Wil Schroder, and Robin L. Webb; Representatives Rocky Adkins, Tim Couch, Myron Dossett, Ken Fleming, Kelly Flood, David Hale, Regina Huff, Russ A. Meyer, Suzanne Miles, Rick G. Nelson, Jason Nemes, Ruth

Ann Palumbo, Jody Richards, Sal Santoro, Arnold Simpson, Jim Stewart III, James Tipton, Jim Wayne, Russell Webber, Susan Westrom, and Jill York.

Guests: John E. Chilton, Budget Director; Kevin Cardwell, Deputy State Budget Director; Greg Harkenrider, Deputy Executive Director; J. Michael Jones, Deputy Executive Director.

LRC Staff: Jennifer Hays, Cynthia Brown, Katy Jenkins, Micah Johnson, and Chase O'Dell.

Introduction of New Appropriations and Revenue Committee Staff

Chairman Rudy introduced Chase O'Dell, Committee Assistant, as new committee staff.

Approval of the Minutes

Representative Simpson moved that the minutes of the June 28, 2018, meeting be approved. Representative Flood seconded the motion, and the minutes were approved by voice vote.

Closeout of Fiscal Year 2017-2018

John E. Chilton, State Budget Director; Kevin Cardwell, Deputy State Budget Director; Greg Harkenrider, Deputy Executive Director; and Dr. J. Michael Jones, Deputy Executive Director, reviewed the budget and revenues for Fiscal Year 2017-2018 and the financial outlook for Fiscal Year 2018-2019.

The FY 2018 General Fund experienced a Revenue Surplus of \$119,800,000, with actual receipts coming in at \$10,838,200,000.

Sales and Use tax receipts for FY 18 were \$6.2 million below the official estimate. Individual Income tax receipts were \$94.6 million above the official estimate. The Coal Severance Tax exceeded the official estimate by 1.3 percent. However, receipts for the Coal Severance Tax are down to \$89.6 million from a high of \$296 million.

Greg Harkenrider testified that the Sales and Use Tax brought in \$120.4 million of new revenues in FY 18. The Individual Income Tax brought in \$209.7 million of new revenues in FY 18. In total there was \$360.4 million dollars of new revenues brought in during FY 18 – with Sales and Use Tax and Individual Income Tax making up most of that amount.

Greg Harkenrider stated that from FY 14-FY 18, the Income Tax growth exceeded the General Fund growth during each year. Mr. Harkenrider explained that the General Fund growth relies on the Sales Tax and Income Tax. Director Chilton stated that the Sales Tax and Individual Income Tax account for 75 percent of the General Fund total revenue. Overall growth in Individual Income Tax in FY 18 was 4.8 percent.

FY 18 ended with a \$15.8 million General Fund Surplus. Revenues in excess of the official revised estimate came in at \$119.8 million. Necessary Government Expenses (NGEs) for FY 18 amounted to \$80.8 million. Tobacco Revenue was \$20.5 million less than budgeted for FY 18.

Kevin Cardwell stated that the Budget Reserve Trust Fund (BRTF) had a beginning balance of \$150.5 million for FY 18. HB 303 appropriated use of \$56.7

million from the BRTF. The BRTF had a FY 18 ending balance of \$93.8 million. Director Chilton explained that funds from the BRTF were not pulled to pay for the NGEs; NGEs for FY 18 were paid for by the surplus that was generated during the year.

NGEs for Corrections totaled \$52.1 million in FY 18. Additionally, \$49.2 million has been included in the base budget for Corrections NGEs in FY 2019, with \$54 million being budgeted for FY 20. Kevin Cardwell reported that higher admissions, lower parole grant rate, and a reduction from the Governor's recommended budget all contributed to the \$52.1 million Corrections NGEs for FY 18.

NGEs for Guardian Ad Litem totaled \$14.1 million in FY 18. In addition, \$9.5 million has been included in the base budget for Guardian Ad Litem NGEs for FY 19 and FY 20.

NGEs for Military Affairs totaled \$3.9 million in FY 18. FY 19 and FY 20 both have a base budget of \$4.5 million for Military Affairs NGEs.

NGEs for Natural Resources and Fire Suppression totaled \$3.2 million in FY 18. Additionally, \$2.3 million was allocated to the base budget for Natural Resources and Fire Suppression NGEs for FY 19 and FY 20.

NGEs for County Costs totaled \$6 million in FY 2018. \$4 million was allocated to the base budget for NGEs for County Costs for FY 19 and FY 20.

Dr. Michael Jones testified that actual receipts for the Tobacco Fund in FY 18 were \$12,047,460 below the official estimate. Dr. Jones explained that in part, a national drop in the volume of cigarettes sold caused actual receipts to be lower than the official estimate for FY 18.

The Road Fund had a revenue surplus of \$7.7 million in FY 18. Road fund growth from FY 17 to FY 18 was 0.2 percent. Greg Harkenrider stated that the Motor Fuels tax and Motor Vehicle Usage Tax make up over 80 percent of the road fund. Kevin Cardwell reported that the FY 18 Road Fund Surplus totaled \$19.6 million.

Greg Harkenrider testified that the Sales Tax is projected to grow \$208.2 million in FY 19, while Tobacco Taxes are projected to grow \$128.6 million.

Director Chilton reported that FY 19 estimated NGEs will exceed the \$15.8 million reserved from the General Fund surplus from FY 18. While the FY 18 Road Fund revenue is on target, there will probably be no significant growth. The revenue growth is inadequate to meet pension and other obligations. Over 30 percent of the FY 19 General Fund dollars will be spent on Medicaid and Pensions.

In response to a question from Representative Rudy, Kevin Cardwell and Director Chilton explained that there was some unspent tobacco money from FY 17 that carried forward to FY 18.

In response to a question from Representative Tipton, Greg Harkenrider stated that the extra \$10 million received by the lottery in FY 18 was unexpected, and that the smaller estimate for FY 19

was not due to the Consensus Forecasting Group expecting the lottery to experience a decline in receipts.

Representative Wayne expressed a desire to know the fiscal impact of the expansion of Medicaid on local economies. While spending on Medicaid had increased, he was curious to know if it also had boosted the economy with money coming in.

In response to a question from Representative Richards, Greg Harkenrider stated that his belief was that the Weight Distance tax fell from FY 17 due to the timing of the receipts coming in. In response to a second question from Representative Richards, Dr. Jones testified that the Tobacco Fund expects to receive \$4.5 million from the Master Settlement Agreement, which will be received partially over the next two years. Dr. Jones continued to say that the significant shortfall was due to the overall decline in consumption of cigarettes nationwide.

In response to a question from Representative Rudy, Kevin Cardwell stated that in the current budget, for the first time ever, significant dollars that would have normally been a Necessary Government Expense were included in a base budget. In response to another question by Representative Rudy, Director Chilton said that the FY 18 General Fund Surplus of \$15.8 million was being reserved for the NGEs for FY 19.

In response to a question from Representative Flood, Director Chilton explained that a change in the funding formula for the pension plans will be implemented in the next biennium; this change will require more money than is committed to pensions.

In response to a question from Representative Nemes, Director Chilton stated that the Consensus Forecasting group will not meet again for another year and a half, but that prospects look good for the next 18 months. Mr. Harkenrider added that the economy currently has a lot of upside risk.

Correspondence Received

Representative Rudy reviewed correspondence received since the last meeting.

List of Reports Received Since June, 2018

Representative Rudy reviewed reports received since the last meeting.

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection Minutes of the 1st Meeting of the 2018 Interim July 26, 2018

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 26, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Sal Santoro,

Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Sal Santoro, Co-Chair; Senators Ernie Harris, Jimmy Higdon, and Dennis Parrett; Representatives Chris Fugate, Chris Harris, Kenny Imes, Robby Mills, and Ken Upchurch.

Guests: Deputy Secretary Paul Looney, Kentucky Transportation Cabinet (KYTC); Ron Rigney, Director, Division of Program Management, KYTC; Royce Meredith, Manager, Bridging Kentucky Program, KYTC; and, Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC.

LRC Staff: Justin Perry, David Talley, and Spring Emerson.

Highway Plan Update

Deputy Secretary Looney and Mr. Rigney provided a brief update of the Highway Plan.

In response to a question from Senator Harris, Mr. Rigney said applications for grants had been submitted by the local communities, and were not prioritized by the KYTC.

In response to a question from Senator Parrett, Mr. Looney said there are 968 safety and mobility projects totaling \$8.6 billion. These projects do not include the Brent Spence Bridge or the I-69 Bridge in Henderson.

Bridge Program Update

Mr. Looney and Mr. Meredith provided a progress report of the Bridging Kentucky program.

In response to a question from Senator Harris, Mr. Looney said increased spending authority had been requested for design/build funding for bridges in the last budget cycle.

In response to questions from Senator Parrett, Mr. Looney said the University of Kentucky has been working on fiber composites for use on rehabilitating bridges. Mr. Meredith added that rehabilitation should add 30 years to the life of a bridge, and a new bridge should last 75 years. A structural carbon fiber is epoxied onto concrete beams as part of the rehab process.

In response to a question from Chair Santoro, Mr. Meredith said a consultant team was brought on in April with a 120-day plan to screen every bridge by mid-August. Chair Santoro requested another progress report next year, and commented that the KYTC has a need for more funding.

FY18 Financial Overview

Ms. Brewer provided an overview of the fiscal year 2018 agency closeout.

There being no further business before the subcommittee, a motion to adjourn was made by Representative Harris, seconded by Representative Mills, and the meeting was adjourned at 10:37 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection Minutes of the 1st Meeting of the 2018 Interim July 26, 2018

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 26, 2018, at 10:00 AM, in Room 129 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, and Alice Forgy Kerr; Representatives Jim Gooch Jr., and, David Hale.

Guests: Gail Russell, Acting Secretary, Public Protection Cabinet (PPC); Matthew Thacker, Director, Division of Fiscal Responsibility, PPC; Christy Trout Van Tatenhove, Commissioner, Department of Alcoholic Beverage Control (ABC), PPC; Steve Humphress, General Counsel, ABC, PPC; Jeff Smith, Chief of Staff, ABC, PPC; Randy Harris, Director, Enforcement Team, ABC, PPC; Travis Tennill, Assistant Director, Enforcement Team, ABC, PPC; Carol Beth Martin, Malt Beverage Administrator, ABC, PPC; Trina Summers, Distilled Spirits Administrator, ABC, PPC; Steve Milby, Commissioner, Department of Housing, Buildings, and Construction (HBC), PPC; Tim House, Deputy Commissioner, HBC, PPC; and, Mike Haney, Executive Advisor and Acting Fire Marshal, Division of Fire Prevention, HBC, PPC.

LRC Staff: Seth Dawson, Sara Rome, Nick Peak, and Benjamin Thompson.

Alcoholic Beverage Control

Mr. Thacker, Ms. Trout Van Tatenhove, and Mr. Humphress provided a brief update on the activities and budgetary needs of Alcoholic Beverage Control (ABC).

In response to a question from Senator Clark, Ms. Trout Van Tatenhove said there is a high compliance rate and that fewer penalties are being imposed due to continued education of licensees and local communities.

In response to questions from Chair York, Ms. Trout Van Tatenhove said there is a formal process for handling complaints. After a complaint is logged, it is assigned to an investigator who conducts a thorough investigation, and the establishment involved is then notified of the findings. Ms. Trout Van Tatenhove added that licensing and enforcement staff are cross-trained to teach STAR education classes. Mr. Humphress said the goal is to get all licensees into compliance. Violators can be offered a fine in lieu

of suspension or revocation, and a second violation within a two-year period requires an increased penalty. If it becomes evident that a licensee is not going to comply with law, then revocation would be sought as an extreme measure. Ms. Trout Van Tatenhove said that all licensees are entitled to due process under KRS Chapter 13B and the administrative hearing process. Mr. Humphress said that when a complaint is filed, the investigator checks about ten licensees in the area in an effort to best use resources. In the past, there could be one or two violations out of ten investigations, but today none are often found because of better compliance.

In response to questions from Chair York, Mr. Humphress said in those instances where a city is approved for alcohol sales but the county is still considered dry, the two are considered separate entities. The county vote would not affect the city, as outlined in KRS 242.125.

Housing, Buildings, and Construction Division of Fire Prevention

Mr. Thacker, Mr. Milby, and Mr. Haney summarized the activities and budgetary needs of the Division of Fire Prevention (DFP) within the HBC.

In response to questions from Co-Chair Girdler, Mr. Haney said there has been no downturn in the number of fires in the past 30 years. Until 2007, the Office of State Fire Marshal (OSFM) had the National Fire Incidence Reporting System (NFIRS), which was to be used by local fire departments to report fire incidents. The program was transferred in 2007 to the State Fire Commission and that information is no longer made available to OSFM. OSFM works closely with the State Fire Commission, the Firefighters Association, and the Fire Chiefs Association, but DFP does not keep records on total loss numbers. OSFM assists in saving lives when there are incidents such as wind storms, tornadoes, and incidents other than fires. There are existing homes that were not built to current codes; as a result, there will be more fire incidents in these non-regulated homes.

In response to questions from Chair York, Mr. Haney said local fire departments are legally required to inspect for cause of origin after a fire incident, and arson-related fires are inspected by the Kentucky State Police.

In response to questions from Representative Hale, Mr. Haney said every inspection is different, and regulated buildings have a broad range of components, such as the function of the facility and the number of people expected to be in the facility. The fire code is so broad that every factor brings in more stringent code requirements. If a building was approved prior to current building codes and was maintained as it was originally approved, it can continue in use. Inspections would include checking to see that fire alarm systems, smoke detectors, sprinkler systems, and other fire prevention devices are well maintained and in working order, that exit signs are in place and work properly, and that combustible materials are not stored near electrical systems or boilers. Every

component relating to fire safety is checked, such as handrails on stairs being properly maintained and corridors kept clear. Inspections encompass a broad range of components in regulated buildings. Facilities are not notified when an inspection is imminent. Churches are typically exempt, unless there is a complaint, or if there is a daycare facility in the church. Priority is given to inspections of places of assembly, where people sleep, and facilities where residents are not capable of self-preservation. Emphasis is placed on dormitories, motels, nursing homes, hospitals, day-care centers, and K-12 education facilities. Colleges and universities are usually inspected annually.

In response to a question from Chair York, Mr. Haney said that, if a building is in imminent danger of fire, the facility would be closed until the building is made safe. This does not happen very often because most facility operators are eager to comply with codes for the safety of their people.

In response to questions from Senator Kerr, Mr. Haney said churches are not typically inspected on an annual basis unless there is a daycare or private school present. Inspections are performed in places where there is an increased likelihood of fire, and there are very few, if any, fire deaths occurring in churches. The Beverly Hills Supper Club fire incident is the reason for the existence of the OSFM. Every new building that will be used for assembly must be approved by the Division of Building Code Enforcement for electrical, HVAC, plumbing, fire alarms, types of building materials used, and other fire-related issues.

In response to a question from Senator Clark, Mr. Haney said that, if an inspection is requested, it will be done.

In response to a question from Chair York, Mr. Haney said he did not know about movement or shifting of resources or inspectors.

There being no further business before the subcommittee, the meeting was adjourned at 11:04 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Education Minutes of the 2nd Meeting of the 2018 Interim July 26, 2018

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 26, 2018, at 10:00 AM, at Kentucky State University. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative James Tipton, Co-Chair; Senators C.B. Embry Jr., and Johnny Ray Turner; Representatives Danny Bentley, George Brown Jr., John Carney, Tim Moore, Melinda Gibbons Prunty, Rick Rand, Jody Richards, and Steve Riley.

Guests: Dr. M. Christopher Brown II, President, Kentucky State University (KSU); Dr. Debbie Reed, Director, Breathitt Veterinary Center, Hutson School of Agriculture, Murray State University (MuSU); Dr. Tony Brannon, Dean, Hutson School of Agriculture, (MuSU); Jordan Smith, Legislative Liaison, (MuSU); Dr. Eli Capilouto, President, University of Kentucky (UK); Dr. Nancy Cox, Dean, College of Agriculture, Food, and Environment, (UK); Dr. Kirk Pomper, Director of Land Grant Programs, Professor, Division of Agriculture and Natural Resources, KSU; and Gregory M. Rush, Office of the President, KSU.

LRC Staff: Joe Lancaster, Chuck Truesdell, Jonathan Eakin, and Amie Elam.

Kentucky State University

Dr. M. Christopher Brown, President, KSU, presented KSU's Management and Review Plan. President Brown provided highlights on the university's impact on graduates and the community. KSU has made progress in all areas of student success over the last five years.

In response to a question from Chair Tipton, President Brown said that math phobia exists statewide. The new co-requisite model will increase the ability to complete college level math. Training math educators as an area that needs additional work. KSU and Franklin County Independent Schools have expanded the dual enrollment initiative. Each high school student is eligible to graduate with a certificate or an associate's degree that is transferable to any institution in the Commonwealth.

In response to a question from Representative Moore, President Brown said that the state pays for remedial work. The rigor of K-12 education is not consistent across the nation.

In response to a question from Representative Brown, President Brown said that the KSU teacher education program is being revamped to focus on urban and rural students. Educator preparation to work with these groups of students will assist in shrinking the achievement gap.

Breathitt Veterinary Center

Dr. Debbie Reed, Director, Breathitt Veterinary Center (BVC), discussed work at the diagnostic laboratory, which allows veterinarians to make appropriate treatment decisions. BVC plays an important role in public health and safety.

In response to a question from Chair Tipton, Dr. Reed said BVC is moving towards Chronic Wasting Disease onsite testing. Chronic Wasting Disease is spongiform encephalopathy transmitted by deer.

In response to a question from Representative Bentley, Dr. Reed said that listeria is primarily seen in silage-fed cattle. It would be rare to contract listeria from drinking creek water.

In response to a question from Representative Carney, Dr. Reed said that she is aware of the Asian carp situation. She is unsure what role BVC could serve because it is a diagnostic center. Kentucky is blessed to have a great working relationship with other state and federal agencies. Mr. Smith passed on

appreciation from President Davies for the support BVC has received from the subcommittee and the General Assembly.

In response to a question from Representative Prunty, Dr. Reed said that the Centers for Disease Control and Homeland Security contribute funding to BVC to ensure emergency readiness.

University of Kentucky

Dr. Eli Capilouto, President, University of Kentucky (UK) and Dr. Nancy Cox, Dean, College of Agriculture, Food, and Environment discussed UK's land grant program. Dr. Capilouto highlighted UK's three-part land grant mission--instruction, research, and extension. Dr. Cox and President Capilouto said that the College of Agriculture, Food, and Environment is a valuable investment for Kentucky.

In response to a question from Chair Tipton, Dr. Cox said that digital and robotic farming is increasing. UK partners with large farms to test new technology.

In response to a question from Representative Carney, Dr. Cox said that the extension facilities are in good condition. A statewide needs assessment is being conducted to determine how the Commonwealth can be better served.

In response to a question from Representative Bentley, Dr. Cox said that postmortems on newborn foals are conducted at UK. UK does not offer an equine physical therapy degree. That type of degree would likely be very popular.

In response to a question for Representative Prunty, Dr. Cox said extension offices partner with community based agencies to serve community healthcare needs.

Kentucky State University (KSU)

Dr. Kirk Pomper, Director of Land Grant Programs, KSU, testified about the university's research and extension initiatives. He highlighted various programs including aquaculture, human health, and food safety.

In response to a question from Representative Richards, Dr. Pomper said that more than 20 freshwater prawns producers work with KSU.

In response to a question from Representative Riley, Dr. Pomper said many farmers are interested in growing hemp, but investors are unwilling to provide startup money because of legal issues. He said that future legislation to clarify these legal issues is important for investors.

There being no further business, the meeting was adjourned at 12:05 p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

July 18, 2018

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Wednesday, July 18, 2018, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Larry Brown, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mr. Bart Hardin, Director of Government Relations, University of Kentucky; Mr. Kevin Cardwell, Deputy State Budget Director, Office of State Budget Director; Mr. Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Ms. Donna McNeil, Executive Director, Kentucky Infrastructure Authority; Senator Whitney Westerfield; Mr. Mark Bunning, Deputy Secretary, Finance and Administration Cabinet; and Mr. Ryan Barrow, Executive Director, Office of Financial Management.

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

Approval of Minutes (June 19, 2018)

A motion was made by Representative Rudy to approve the minutes of the June 19, 2018 meeting. The motion was seconded by Representative St. Onge and approved by voice vote.

Correspondence Items

Ms. Halloran reported two correspondence items. The first, required by the 2016 executive branch budget bill, was from the Finance and Administration Cabinet certifying fiscal year 2018 unexpended debt service for the Kentucky Communications Network Authority's contractual public-private partnership availability payments. The second was KRS 45.800 correspondence from and to the committee regarding resubmittal of Kentucky Infrastructure Authority broadband loan requests.

Information Items

Ms. Halloran reported one information item: the quarterly capital projects status reports from the Administrative Office of the Courts; the Commonwealth Office of Technology, reporting separately from the Finance and Administration Cabinet; the Finance and Administration Cabinet; and postsecondary institutions managing their own capital construction programs.

Lease Report from the Postsecondary Institutions

Mr. Hardin reported two lease renewals for the University of Kentucky (UK). The first was for the UK Center on Trauma and Children (CTAC), 11,199

square feet at \$18.50 per square foot for a \$207,181.50 annual cost, a \$5,823.50 increase. Although the rental rates from the other two respondents to UK's Request for Proposal (RFP) were lower, the buildings were rated below Class A and UK would have incurred significant renovation, including infrastructure upgrades, costs.

The second was for UK Healthcare; 101,264 square feet at \$16.10 per square foot, plus \$10.00 per square foot for common area maintenance and utilities, for a \$2,642,990.40 annual cost.

A motion was made by Representative St. Onge to roll the two new leases into one roll call vote, seconded by Representative Rudy, and approved by unanimous roll call vote.

A motion was made by Representative Rudy to approve the leases, seconded by Representative St. Onge, and approved by unanimous roll call vote.

Project Report from the Finance and Administrative Cabinet

Mr. Cardwell submitted a new \$665,000 project for the Kentucky State Fair Board (KSFB), Concessionaire Kitchen Buildout at the Kentucky International Convention Center (KICC). The project, the construction of a bakery, is supported by private funds from KICC's food service concessionaire, Levy's Convention Centers, and the KSFB will receive a percentage of the bakery's revenues.

A motion was made by Representative Rudy to approve the project, seconded by Representative St. Onge, and approved by unanimous roll call vote.

Lease Report from the Finance and Administrative Cabinet

Mr. Aubrey reported a lease modification for the Board of Hairdressers and Cosmetologists in Franklin County; a 8,093 square feet decrease, from 12,611 square feet to 4,518 square feet, at \$7.74 per square foot, resulting in a \$62,639.88 annual decrease, from \$97,609.20 to \$34,969.32.

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

Report from the Office of Financial Management

Ms. McNeil submitted multiple Kentucky Infrastructure Authority loan requests.

The first items were the resubmittal of loan and loan increase requests for two broadband projects: Hopkinsville Electric System [for Phase 2 of the Fiber to Home project] and MuniNet Fiber Agency [for Project #2]. Hopkinsville Electric System (HES) requested a \$2.5 million Fund B (Infrastructure Revolving Loan Program) loan and a \$1.8 million Fund C (Government Agencies Program) loan. Phase 2 of the four-phased project is the installation of 65 miles of fiber to provide high speed internet, potentially serving 3,600 residences, including 900 new customers, within the city limits. HES has 13,000 customers in Trigg, Christian, and Todd counties. In 2007, Phase 1, new fiber to access a T-1 provider in Bowling Green and funded with a \$3 million KIA

loan, resulted in reduced corporate T-1 service costs from \$3,000 per month to \$350.00 per month. The KIA loan has a balance of \$1,675,909 and will mature in 2023.

Community and business leaders requested that HES provide expanded residential service to promote economic development. Most of the proposed service area has access to internet services through HES or other providers such as AT&T and Spectrum; however, is considered underserved because of quality of internet access. The term for both loans is 20 years with a 1.75 percent rate and 3 percent rate for the Fund B and Fund C loan, respectively.

Senator Westerfield said he appreciated the committee's reconsideration of the project. He stated that he and his law office were HES customers and that the robust organization, although the only local provider, conducts business as if there were hundreds of other competitors. He also referenced local customer service, competitive pricing, and good stewardship of existing KIA loan proceeds. He mentioned that whenever the citizens of Hopkinsville have been polled, as with residents in other communities as there is still much need, particularly in rural areas; they requested broadband access most often. Lastly, he said the project is a huge initiative and asked for the support of the committee.

Mr. Bunning stated that he is a KIA board member and that it was important for the committee to reconsider the project, as when communities are underserved by the private sector, communities should be given the opportunity to serve themselves. Mr. Bunning said the requested loan amount represented less than one half of one percent of KIA's \$1.2 billion loan portfolio. The loan will fund last-mile work impacting residences and businesses.

Representative Brown said that he could relate to the issues involved when a community is underserved.

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

Representative Rudy referenced Representative Walker Thomas's support when explaining his yea vote.

The MuniNet Fiber Agency requested a \$514,000 increase to its \$3,173,049 Fund C (Government Agencies Program) loan [Project #2] due to changing from hanging to buried fiber. The MuniNet Fiber Agency was created as a joint agency under the Interlocal Cooperation Act. There are seven members: Murray Electric System, Mayfield Electric and Water Systems, Paducah Power System, Princeton Electric Plant Board, Hopkinsville Electric System, Russellville Electric Plant Board, and Glasgow Electric Plant Board. MuniNet provides service to two banks, Graves and Marshall County schools, Marshall County libraries, Murray State University, Murray-Calloway County Hospital, and six internet service providers: CIS Telecom Group, Dialog Telecommunication, e-Tel, Paducah Power System, Systems Solutions, and Windstream. The fiber from this project was

constructed along the path that KentuckyWired planned to take; therefore, it will be one of MuniNet's customers through a 30 year Indefeasible Right of Use contract. MuniNet members began receiving internet services from Level 3 in April 2013, paying \$1.85 per megabytes, a significant savings from the \$108 Murray Electric System was paying in 2009. Presently the cost of internet connection, just under a dollar, is about half as what it was in 2013. MuniNet has three existing loans through KIA for approximately \$7.7 million, maturing in 2030, 2034, and 2037, respectively. The term is 20 years with a 3 percent interest rate.

Senator Carroll said that he was involved in representing utilities many years ago and is familiar what these utilities are doing, that he read the all the correspondence and the proposal, and that he believes the savings are significant.

Representative St. Onge referenced briefings by Representative Thomas, Deputy Secretary Bunning, Annette DuPont-Ewing [Executive Director, Kentucky Municipal Utilities Association], and others when explaining her yea vote.

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

The City of Campbellsville in Taylor County requested a \$1,377,000 increase to its \$6,593,000 Fund F (Drinking Water State Revolving Fund Loan Program) loan [2017 Water System Improvements project] for a total loan amount of \$7,970,000. The project will provide improvements to the existing water treatment plant; clarifier, filter controls, pipe gallery valve replacements, raw water meter valve kit, chlorine controls; two existing service pumps and add storage garage, filter belt press, sludge pumping facilities as well as chlorine pumps for the filters. The current average respective monthly water bills, for 4,000 gallons, for those inside and outside of the city are \$19.32 and \$38.04. The current rates; an increase of 1.5 percent over the previous year, less than the 3 percent allowed by the city's ordinance, were effective July, 2018. The term is 20 years at a .25 percent interest rate.

The City of Pineville in Bell County requested a \$2,084,590 Fund F loan [Water Treatment Plant Expansion project], including the \$220,000 previously approved Planning and Design loan, to construct a new 2 million gallon per day water treatment plant. The current average respective monthly water bills, for 4,000 gallons, for those inside and outside of the city are \$37.04 and \$47.45. The rates have not increased since July 2014; however, the city has committed to raise rates, if necessary, to meet the 1.1 debt coverage ratio required by the terms of the assistance agreement. The term is 20 years at a .50 percent interest rate.

Representative Rudy commented on the engineering cost differential between the two Fund F projects, Campbellsville's project at 10.2 percent and the Pineville's project at 15.7 percent. Ms. McNeil said that Pineville switched engineers, that KIA adheres to

the old slide rule for the rural development wage on the engineering rates, and that she would provide the average engineering costs for KIA projects.

A motion was made by Senator Carroll to roll the two loans into one roll call vote, seconded by Representative St. Onge, and approved by voice vote.

A motion was made by Senator Carroll to approve the loans, seconded by Representative St. Onge, and approved by unanimous roll call vote.

The City of Lebanon in Marion County requested a \$50,000 Fund C Federal Surplus Property Equipment loan from the \$500,000 KIA set aside for the this pilot program, which provides a two-year line of credit of up to \$50,000 for public utilities that are members of the federal surplus property program administered by the Finance and Administration Cabinet. Lebanon is KIA's first equipment loan applicant as well as approval and is acquiring the equipment listed on their application. The repayment period is five years, once the line of credit is closed, with a 2 percent interest rate. No action was required.

New Conduit Bond Issues

Mr. Barrow submitted the Kentucky Economic Development Finance Authority (KEDFA) Taxable Hospital Revenue Refunding Bonds, Series 2018A (Baptist Healthcare System Obligated Group). Proceeds from this bond issue will consolidate a large portion of its prior debt; the Series 2009A, long term, and Series 2017C, short term. The proposed date of sale is August 9 and as a conduit issue, the debt service is the obligation of the healthcare system rather than the commonwealth or KEDFA.

Mr. Barrow stated that the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (City View Park Project), Series 2018, will be presented at a future committee meeting due to project scope increases.

A motion was made by Representative St. Onge to approve the bond issue, seconded by Senator Carroll, and approved by unanimous roll call vote.

Follow-up for Previously Approved Bond Issue

Mr. Barrow reported the previously approved State Property and Buildings Commission (SPBC) Revenue Bonds, Project No. 119 and SPBC Agency Fund Revenue Refunding Bonds, Project No. 120, a general fund transaction for \$300 million of authorized projects from various budget bills and an agency fund refunding transaction resulting in a net present value savings of \$1.5 million (14 percent) for the Department of Military Affairs. The bonds sold at a 3.72 true interest cost, just below 4 percent.

Rating agencies will typically review the commonwealth's credits around once a year, within the confines of a transaction. Moody's and Fitch affirmed its prior ratings and S&P downgraded the commonwealth; citing known factors including unfunded pension liabilities, budgetary constraints, and weakened reserves (similar to its commentary in prior years). Mr. Barrow said that, prior to the downgrade, the commonwealth already had a split rating with S&P rating the commonwealth one notch

below Moody's and Fitch. With the downgrade, S&P's rating is now two notches below the other rating agencies, consistent with S&P weighing the pension component more severely. Mr. Barrow said he did not think the downgrade greatly affected this transaction since S&P assigned a negative outlook to its rating before the downgrade. No action was required.

In response to questions from Senator Carroll, Mr. Barrow said that S&P referenced uneven budgetary management with expenditure cuts and weakened reserve levels during a period of economic expansion.

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

Mr. Barrow submitted two school district bond issues with School Facilities Construction Commission (SFCC) debt service participation for new projects in the Jenkins Independent [Letcher County] and Scott County school districts. Similar to prior meetings, SFCC did not submit municipal refunding transactions. The amount to be issued is about \$16.7 million, with around \$2.7 million SFCC and \$14 million local.

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

School District Bond Issues with 100 Percent Locally-Funded Debt Service

Ms. Halloran reported two local school district bond issues for new projects in the Butler and Scott County School Districts with 100 percent local debt service support, for which no tax increases were necessary to finance. No action was required.

With there being no further business, the meeting adjourned at 1:37 p.m.

SCHOOL SAFETY WORKING GROUP

Minutes of the 3rd Meeting of the 2018 Interim

July 9, 2018

Call to Order and Roll Call

The 3rd meeting of the School Safety Working Group was held on Monday, July 9, 2018, at 2:50 p.m. CDT, at Trigg County High School. Representative John Carney, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative John Carney, Co-Chair; Senators Danny Carroll, and Alice Forgry Kerr; Representatives George Brown Jr, Will Coursey, and Brandon Reed.

Ex-Officio Members and Consultants: Dr. Joe Bargione, Keith Griesser, Nasim Mohammad Zadeh, Commissioner Alex Payne, Dr. Jon Akers, and Major General Jerry Humble.

LRC Staff: Jo Carole Ellis, Yvette Perry, and Maurya Allen.

Approval of Minutes

Senator Kerr moved to approve the minutes of the June 4, 2018 and the June 11, 2018 meetings, which was seconded by Representative Reed. The motion passed by voice vote.

Thoughts From Those Impacted

Trent Lovett, Superintendent, Marshall County School District, Jasen and Secret Holt, parents of Bailey Holt, and Brian and Teresa Cope, parents of Preston Cope, shared their experiences about the tragedy in Marshall County High School on January 23, 2018. On that day, a 15-year-old student shot his classmates, wounding several and fatally injuring Bailey Holt and Preston Cope.

Mr. Lovett said there was a need to do something immediately after the shooting in order to ensure students safety and calm their fears. The school closed for two days; when it reopened, parents were encouraged to attend with their students and take them home if they believed it was necessary. The community and students wanted increased security measures. Students requested backpack checks and metal detector wands to be used when they entered the building. Mr. Lovett said he fulfilled these requests as soon as possible because he wanted the students to feel safe again and it met their psychological safety needs. He knows that these are not final measures or even long-term sustainable measures for safety, because he knows that these do not deter or prevent those who are committed to causing harm. A committee formed at the end of the school year to provide advice and propose long-term solutions, and Mr. Holt and Mr. Cope serve on that committee. The first recommendations that the committee has made, and which will be implemented next year, are walk-through metal detectors at school entrances, a no-backpack policy for middle and high schools, and clear backpacks for elementary school students.

Mr. Lovett said increased mental health services will be essential, not only in preventing future tragedy but in helping students and staff heal from the recent trauma. The school is negotiating to hire more mental health care providers and School Resource Officers (SROs) to provide the long-term care and support the school needs. There has been some resistance from the community concerning the change to backpack policy, but in general, everyone has been overwhelmingly supportive in trying to help Marshall County heal and move forward. While early identification of threats and mental health concerns is essential, there is a high cost to hiring mental health professionals, and the school does not know how to cover the cost at this time. "Hardening the target" through the use of exterior security is a necessary and achievable first step.

In response to a question from Representative Carney regarding communication during a school safety event, Mr. Lovett said teachers and staff were already responding to the needs of the injured by the time that Mr. Lovett was notified and arrived on the scene. They had begun taking action before an all-clear was announced and he commended them for

their actions. He also said that even if an SRO had been in the room, he or she would not have been able to stop the shooter without risking others. The first responders did an excellent job reporting to the Special Law Enforcement Officer (SLEO) who was likely the first individual to report the shooting to outside law enforcement authorities.

Responding to a question from Senator Carroll, Mr. Lovett said Special Law Enforcement Officers (SLEOs) function as a school police force. He said that he does not want the responsibility of being a police chief in addition to his duties as an educator. He preferred to partner with those who had experience and training in law enforcement, thus the decision to hire a School Resource Officer (SRO). Legislative changes to insurance for retired law enforcement returning to service as SLEOs and SROs was a big support because he really preferred not to place a rookie in the position of facing a student shooter in a room full of students. Senator Carroll added that it was necessary to ensure the law enforcement officer also has a good rapport with students. Mr. Lovett said he was going to be sitting in on the interviews later in the week to make certain any hired individuals fit with the school culture.

Senator Carroll said proper information about and access to state level mental health support services are essential to ongoing school safety. Mr. Lovett agreed but said he is not as knowledgeable about daily school operations as school principals. Even if funding is available for each school to hire a dedicated mental health professional, there are not enough trained individuals to meet the demand.

Representative Coursey asked if the parents would share what their children were like so that they could be reminded why this was such an important topic. The parents gave moving testimony about their children. Both were said to be good students, "old-souls," loving and giving to family and friends, who will be greatly missed by everyone. Ms. Holt said it had been a real struggle for her youngest daughter to adjust to the loss of her sister, Bailey, who had such a bright future. Mr. Cope reminisced about a family trip to Gettysburg that had been a highlight for Preston. He said that, while the state is moving forward in regards to school safety, especially in the wake of this tragedy, they need to continue setting an example.

Responding to a question from Co-Chair Carney, Mr. Cope said parents must keep their guns secured. This is a key part of being a responsible gun owner, and legislation should hold gun owners accountable for their part in facilitating tragedies. He said that guns are not the source of the problem. Mr. Holt said that parents need to also know what their students are doing and watch for red flags. If someone sees something, they should say something. Mr. Cope said that the entire culture has been desensitized to violence through media and news outlets glamorizing killing, so this is not a problem that can be solved overnight.

In response to a question from General Humble,

Mr. Lovett said they had received overwhelming emotional and financial support from the community, but while that made sense for Marshall County, that would not be an option for many smaller communities or in communities that have not experienced such an immediate tragedy. While there is more likely going to be support in the current climate, this will not always be the case.

Responding to questions from Dr. Bargione, Mr. Lovett said the staff at Marshall County have done an amazing job providing support and emotional outlets for students to cope with the tragedy. With school starting soon, there is an urgency to put in place programs that are proven to work. He is looking for seamless adoption of services, including wrap-around supports from community groups, but there is still uncertainty about who will coordinate the programs and what kinds of “upstream prevention” programs can be adopted.

Dr. Akers said that the Center for School Safety would be performing a debriefing assessment with Marshall County soon to understand what went well and what could have gone better in the emergency response effort. Mr. Lovett said there was an overwhelming and confusing use of acronyms in communication with various agencies. There should be greater parental involvement. He would like to see relationships formed between teachers and students and staff and parents so that warning signs can be seen much sooner.

Responding to questions from Senator Kerr, Senator Carroll said that much of the information regarding the shooter was still being limited because it is an active investigation. Mr. Lovett said that he did not want to glorify the shooter in any way or focus any more attention than necessary on him. There has been no evidence that he had been bullied or was retaliating against treatment at school. Rather, it appeared that he had a psychopathic personality and possibly suicidal ideation. There did not seem to be any trouble at home and he does not fit any “profile” of a school shooter, but perhaps there was a small sign that was overlooked.

Dr. Bargione said that there is rarely a “profile” for a school shooter. While everyone wants to know why something happened, often that is not available or there is no simple answer. His biggest concern is that there is such a large population of individuals with undiagnosed and untreated mental health concerns. Because the population is so large, it is far more likely that someone with a mental health disorder will be a victim rather than a perpetrator of violence. Screening for mental health disorders should be equally as important as screening for dental, vision, and hearing impairments.

Co-Chair Carney agreed, saying that this was indicative of larger societal problems and that schools cannot work in isolation to solve them.

Responding to a question from Senator Kerr, Ms. Cope said she works in the school system as an elementary teacher and sees many students who live

without their parents. She spends at least as much time teaching basic life skills, such as personal hygiene and organization, to students as she does academic skills. These students are missing out on relationships and she worries a great deal about them over the summer. School should always be a safe place; in the wake of a tragedy like the shooting, it makes it just another place where students feel insecure. Ms. Holt said parental relationships are vital. High school and middle school are tough years for students, but foundation of trust and security at home helps. Really listening to children and creating a plan that ensures their safety and happiness should be something every parent should seek.

Commissioner Payne said he often meets extraordinary people on their worst days. He commended the parents on their strength. In the history of Kentucky school shootings, all the weapons had been brought into schools in backpacks. However, the violence attributed to video games and movies is not limited to that. The first school shooter in Kentucky found his motivation in a novel.

Mr. Cope said there is a need to harden all the soft targets, not just schools. If that means raising taxes, then he believes that people will support it. The time for talking is over; it is time for action or it will happen again.

Ms. Mohammed Zadeh asked if closing the communication gap between students and administration would help in terms of reporting, especially reporting things that happen on social media. Mr. Lovett said the school has a tip line, and it has been used much more since the shooting. He said that a tip line that would be available on student phones would be particularly useful because it can be used anytime and anywhere.

Representative Brown thanked the panel for their insights and for making the matter personal. He said that there has been an erosion of societal values over the last 40 years, and it is hard if not impossible to legislate morality, values, and discipline. He said that Fayette County had released a ten-point safety plan on July 2nd that includes raising taxes. The money will be used to secure schools and assess future security needs. He said they may be asked to present the plan to the committee at a later meeting.

Other Business

On the topic of future meeting topics, in addition to the Fayette County ten-point plan, members suggested:

- A panel of teachers discussing their role as first responders;

- Ways to raise funding for school security measures;

- Daviess County Training Exercise on July 31;

- Communities with comprehensive approaches, including rural, suburban, and urban perspectives;

- How information is coordinated and disseminated;

- A student panel reflecting all state regions;

- Backpack recommendations; and

- Lockdown procedures.

Co-Chair Carney announced that the next meeting will be Monday, August 13, 2018 at the Capitol Annex in Frankfort. Details for that meeting will be sent to members when available. With no further business, the meeting was adjourned at 4:40 p.m. CDT.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the July Meeting

July 10, 2018

Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 10, 2018, 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 David Hale, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; Representatives Jason Petrie and Tommy Turner.

Guests: Travis Powell, Rae Smith, Council on Postsecondary Education; Jimmy Adams, Cassie Trueblood, Education Professional Standards Board; Stafford Easterling, Personnel Board; Heather Becker, Harold Corder, Joe Gribbins, Board of Auctioneers; Ryan Holloran, Freddie Mayes, Lee Peplinski, Board of Optometric Examiners; Quincy Ward, Board of Licensure for Long-Term Care Administrators; Board of Licensure for Professional Art Therapists; and Board of Private Investigators; Julie Campbell, Board of Cosmetology; Sonja Minch, Board of Barbering; Amber Arnett, Steve Beam, John Brunjes, Kevin Kelly, Karen Waldrop, Department of Fish and Wildlife Resources; Amy Barker, Ashley Short, Department of Corrections; John Lyons, John Parks, Public Service Commission; Shawn Chapman, John Forgy, Richard Sams, Horse Racing Commission; Duane Curry, Steve Milby, David Startzman, Roger Banks, Department of Housing, Buildings, and Construction; Laura Begin, Julie Brooks, Tori Cunningham, Julie Miracle, Jody Schweitzer, John Lyons, John Parks, Public Service Commission; Shawn Chapman, John Forgy, Richard Sams, Horse Racing Commission; Duane Curry, Steve Milby, David Startzman, Roger Banks, Department of Housing, Buildings, and Construction; Erica Brakefield, Julie Brooks, Tori Cunningham, Julie Miracle, Jody Schweitzer, Department for Public Health; Stephanie Brammer-Barnes, Steve Davis, Molly Lewis, Office of Inspector General; Mark Nethery, Jim Strader, Michael Roberts, Robert Campbell, Nancy Galvagni, Michael Harned.

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

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

Administrative Regulations Reviewed by the Subcommittee:

POSTSECONDARY EDUCATION: Adult Education and Literacy

13 KAR 3:060. High school equivalency diploma awarded for credit hour completion at Kentucky Community and Technical College System institutions. Travis Powell, general counsel, and Rae Smith, GED administrator, represented the council.

In response to a question by Co-Chair Harris, Mr. Powell stated that this administrative regulation applied to students nineteen (19) years of age and older who were less comfortable with a testing environment to obtain a high school equivalency diploma in order to begin postsecondary education. This administrative regulation did not apply to students taking dual-credit courses.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 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.

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

16 KAR 2:010. Kentucky professional and provisional teacher certificates. Jimmy Adams, executive director, and Cassie Trueblood, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add one (1) definition; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Administrative Certificates

16 KAR 5:030. Proficiency evaluation.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL BOARD

101 KAR 1:325. Probationary periods. Stafford Easterling, general counsel, represented the board.

BOARDS AND COMMISSIONS: Real Estate Authority: Board of Auctioneers

201 KAR 3:006. Repeal of 201 KAR 3:005, 3:025, 3:035, 3:055, and 3:065. Heather Becker, general counsel; Harold E. Corder, executive director; and Joe Gribbins, chair, represented the board.

Co-Chair Harris reminded agencies that, in the process of consolidating and reorganizing administrative regulations, it was important that administrative regulations be divided by topic to avoid massively long, over-burdensome administrative

regulations. Co-Chair Harris thanked the board for reorganizing this package of administrative regulations to ensure that stakeholders could readily locate complaint procedures.

201 KAR 3:045. Recordkeeping and accounting.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to reflect added provisions for complaints; (2) to amend the RELATES TO paragraph to comply with the drafting requirements of KRS Chapter 13A; (3) to add a new Section 7 to establish a complaints process; and (4) to incorporate the Complaint Form by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 3:090. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to clarify that licensure requirements shall be determined pursuant to the authorizing statute. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 3:100. Education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 3 and 5 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to add edition dates to forms incorporated by reference; and (3) to amend Sections 1 and 5 through 7 to transfer complaint procedures to 201 KAR 3:045. Without objection, and with agreement of the agency, the amendments were approved.

Board of Optometric Examiners

201 KAR 5:090. Annual renewal fees. Ryan Halloran, assistant attorney general; Dr. Freddie Mayes, secretary – treasurer; and Dr. Lee Peplinski, O.D., vice president, represented the board.

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

201 KAR 5:130. Controlled substances.

Board of Professional Licensing: Board of Licensure for Long-term Care Administrators

201 KAR 6:020. Other requirements for licensure. Quincy Ward, counsel, represented the board.

201 KAR 6:050. Licensure by endorsement.

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.

Board of Cosmetology

201 KAR 12:010. Administrator's duties. Julie Campbell, board administrator, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:030. Licensing, permits, and examinations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 5, 8, and 10 through 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:140. School equipment.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to clarify the minimum equipment and supplies required to comply with the curriculum established in 201 KAR 12:082. Without objection, and with agreement of the agency, the amendments were approved.

In response to questions by Co-Chair Harris, Ms. Campbell stated that the board did not want to overregulate by requiring accountability for every item. Sharps containers were necessary for estheticians more than for cosmetologists. The changes to this administrative regulation still provided for public protection without overregulation. The goal was to keep students in Kentucky schools.

201 KAR 12:190. Complaint and disciplinary process.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 3 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 3 to establish a time limit between when the complaint committee receives a complaint and when it makes its recommendation to the board; and (3) to amend Section 5 to clarify that the written request for a hearing shall be made by the respondent. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:230. Code of ethics.

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

Board of Barbering

201 KAR 14:180. Fees. Sonja Minch, administrator, and Quincy Ward, counsel, represented the board.

In response to a question by Co-Chair Harris, Ms. Minch stated that fee increases were geared toward the schools and businesses, rather than individuals.

Board of Licensure for Professional Art Therapists

201 KAR 34:060. Qualifying experience under supervision. Quincy Ward, counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to establish eighty (80) percent as a passing examination score; (2) to amend Section 13 to incorporate by reference a required form; and (3) to amend Sections 1 through 4, 7 through 11, and 13 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Professional Licensing: Board of Licensure for Private Investigators

201 KAR 41:100. Verification of limited employees. Quincy Ward, counsel, represented the board.

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

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

301 KAR 1:130. Live bait for personal use. Amber Arnett, counsel; Steve Beam, wildlife division director; and Karen Waldrop, deputy commissioner, represented the department.

Game

301 KAR 2:228. Sandhill crane hunting requirements.

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

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

501 KAR 6:070. Kentucky Correctional Institution for Women. Amy Barker, assistant general counsel, and Ashley Short, program coordinator, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that “restrictive housing unit” was the term now used for what was previously referred to as a “special housing unit.” Depending on the institution involved, a restrictive housing unit could be a unit for a rule violator or an accused rule violator for whom a determination had not yet been made.

In response to questions by Representative Petrie, Ms. Barker stated that a female death row inmate had the option to transition into a different housing unit. Currently, there was only one (1) inmate to which this

provision would apply, but there could be more in the future.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) correct policy titles; (2) use consistent terminology; and (3) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT: Public Service Commission: Utilities

807 KAR 5:022. Gas service. John Lyons, deputy executive director, and John Parks, staff attorney, represented the commission.

In response to a question by Senator Clark, Mr. Parks stated that these administrative regulations reorganized and consolidated requirements.

In response to a question by Co-Chair Harris, Mr. Parks stated that there were no substantive changes to requirements.

807 KAR 5:026. Gas service; gathering systems.

PUBLIC PROTECTION: Horse Racing Commission: Thoroughbred Racing

810 KAR 1:111. Repeal of 810 KAR 1:110. John Forgy, general counsel, and Dr. Richard Sams, Ph.D., independent consultant, represented the commission.

810 KAR 8:040. Out-of-competition testing.

In response to questions by Co-Chair Harris, Mr. Forgy stated that this administrative regulation governed the time periods between races, so that a horse may be randomly tested for prohibited “doping” substances. Some substances were undetectable shortly after administration; therefore, random drug testing was needed to discourage illicit performance-enhancing drug administration. Horses tied to Kentucky may be randomly tested at any time in or out of state.

A motion was made and seconded to approve the following amendments: (1) to amend the eligibility requirements in Section 2 to include two (2) development funds that were inadvertently omitted; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Harness Racing

811 KAR 1:241. Repeal of 811 KAR 1:240.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:151. Repeal of 811 KAR 2:151.

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

815 KAR 7:110. Criteria for expanded local jurisdiction. Duane Curry, director; Steven Milby, commissioner; and David Startzman, general counsel, represented the division.

In response to a question by Co-Chair Harris, Mr. Curry stated that the combination Housing, Buildings and Construction board had superseded the

individual licensure boards within the department.

A motion was made and seconded to approve the following amendments: to amend Section 2(3) to clarify that a local government shall maintain the minimum responsibilities required by KRS 198B.060(2), unless specifically agreed otherwise in writing between the local government and department. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 7:120. Kentucky Building Code.

815 KAR 7:125. Kentucky Residential Code.

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

815 KAR 8:011. Repeal of 815 KAR 8:007 and 815 KAR 8:045.

815 KAR 8:070. Installation permits.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:080. Inspections and requests.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 4 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:100. Criteria for local jurisdiction HVAC programs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 7 to clarify that local HVAC inspection programs shall comply with the Department of Libraries and Archives’ record retention schedules; and (3) to amend Section 8 to clarify when the notification period shall begin. Without objection, and with agreement of the agency, the amendments were approved.

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

902 KAR 2:055. Immunization data reporting and exchange. Laura Begin, regulation and legislative analyst; Julie Brooks, regulation coordinator; and Jody Schweitzer, epidemiologist, represented the division.

In response to a question by Co-Chair Harris, Ms. Schweitzer stated that this administrative regulation changed immunization reporting from grade 6 to grade 7 because of age differences of students in grade 6. Some students in grade 6 were too young for the immunizations; therefore, reporting immunizations

at the grade 7 level was more appropriate.

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

Department for Public Health: Division of Public Health Protection Safety: Sanitation

902 KAR 10:040. Kentucky youth camps. Laura Begin, regulation and legislative analyst; Erica Brakefield, section supervisor; and Julie Brooks, regulation coordinator, represented the division.

In response to questions by Co-Chair Hale, Ms. Begin stated that each youth camp volunteer was required to obtain a background check; however, there were some exemptions, such as vacation Bible schools. There were several options to comply with the background check requirement. An applicant may proceed through the cabinet's background check; however due to new background check requirements for public school employees, it was currently taking about one (1) week to complete the process. State and national background checks were also available and usually took one (1) to two (2) days to complete. The division recommended that youth camp organizations have back-up volunteers who had already completed the background checks in case of unexpected absences or other staffing shortages. The cost for each background check was around ten (10) dollars.

In response to questions by Co-Chair Harris, Ms. Begin stated that confusion regarding what exactly constitutes a youth camp began in 1996. Clarification to the definition may require a statutory amendment. This administrative regulation established sanitation requirements for overnight camps. The division expected to make further clarifications later this year.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3 through 13, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:016. Hospitals; operations and services. Stephanie Brammer – Barnes, regulation coordinator; Steve Davis, inspector general; and Molly Lewis, deputy inspector general, represented the division. Nancy Galvagni, senior vice president, Kentucky Hospital Association, and Robert Campbell, Certified Registered Nurse Anesthetist (CRNA), Kentucky Association of Nurse Anesthetists, appeared in support of this administrative regulation. Dr. Michael Harned, Ph.D., Kentucky Society of Anesthesiologists, appeared in opposition to this administrative regulation.

Ms. Galvagni stated that the Kentucky Hospital Association supported the changes to this administrative regulation without further

amendment, especially revisions pertaining to medical staffing. CRNAs were critical to rural hospitals. Many rural hospitals relied solely on CRNAs for anesthesia services. If physician supervision requirements for the administration of anesthesia were reinstated, many rural hospitals would have to cease surgical services.

Mr. Campbell stated that CRNAs had specialized training and were licensed by the Kentucky Board of Nursing. The Kentucky Association of Nurse Anesthetists submitted comments on this administrative regulation during the public comment period. In response, the division submitted an amended after comments version of this administrative regulation with revisions that clarified the term “anesthetist” and updated requirements for physician supervision of CRNAs. The association supported continuation of the 2012 language to CMS to opt out of physician supervision requirements for the administration of anesthesia. Reinstating physician supervision requirements would lead to access problems, especially for rural areas.

In response to a question by Co-Chair Harris, Ms. Galvagni stated that reinstating physician supervision requirements for the administration of anesthesia would put rural healthcare access at risk. Mr. Davis stated that scope of practice was determined by the licensure boards.

Dr. Harned stated that the Kentucky Society of Anesthesiologists was opposed to opting out of physician supervision requirements for the administration of anesthesia. The society supported a physician-lead anesthesia healthcare team approach to the administration of anesthesia. The team-based approach provided a higher level of patient care. There was very little cost difference between CRNA-lead and physician-lead administration of anesthesia. Over a five (5) year period, the U.S. Veterans' Administration studied this issue and determined that the physician-lead, team-based approach was best.

Mr. Davis stated that this administrative regulation did not constitute an erosion of scope of practice. This administrative regulation governed the certification and licensure of hospitals, not individuals. Scope of practice was governed by the licensure boards. CRNAs were authorized to administer anesthesia and did so safely throughout the country. CMS authorized Kentucky's opting out of physician supervision requirements for the administration of anesthesia upon the Governor's request in 2012. Additionally, the language at issue used the word, “direction,” rather than “supervision.”

In response to a question by Co-Chair Hale, Mr. Davis stated that there had been confusion regarding what “direction” meant, as opposed to “supervision.” This administrative regulation clarified requirements to eliminate that confusion. Requiring physician supervision for all administration of anesthesia would harm hospitals and healthcare access.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 3 and 4 to comply with

the drafting requirements of KRS Chapter 13A; and (2) to add a new Section 7 to establish provisions for Off-campus, Kentucky Hospital-Owned Freestanding Emergency Departments. Without objection, and with agreement of the agency, the amendments were approved.

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

BOARDS AND COMMISSIONS: Board of Podiatry

201 KAR 25:090: Prescribing and dispensing controlled substances.

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

301 KAR 2:172. Deer hunting seasons, zones, and requirements. Amber Arnett, counsel; Steve Beam, wildlife division director; and Karen Waldrop, deputy commissioner, represented the department.

Representative Turner stated that the department, subcommittee members, and stake-holders would meet over the next two (2) weeks to discuss concerns pertaining to these administrative regulations.

Without objection, and with agreement of the agency, 301 KAR 2:172 and 2:176 were deferred to the August 14 meeting of the subcommittee.

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees.

ENERGY AND ENVIRONMENT: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:002. Definitions for 401 KAR Chapter 5.

401 KAR 5:005. Permits to construct, modify, or operate a facility.

401 KAR 5:006. Wastewater planning requirements for regional planning agencies.

401 KAR 5:015. Releases to be reported to the division.

401 KAR 5:037. Groundwater protection plans.

401 KAR 5:039. Repeal of 401 KAR 5:035, 5:057, 5:070, and 5:300.

401 KAR 5:045. Treatment requirements; compliance; biochemically degradable wastes.

401 KAR 5:050. General provisions of KPDES permitting program.

401 KAR 5:052. Requirements applicable to cooling water intake structures of facilities regulated by Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

401 KAR 5:055. Scope of applicability of the KPDES program and pretreatment requirements.

401 KAR 5:060. KPDES application requirements.

401 KAR 5:065. KPDES permit conditions.

401 KAR 5:075. Cabinet review procedures for KPDES permits and permit timetables for 401 KAR Chapter 5.

401 KAR 5:080. Criteria and standards for the Kentucky Pollutant Discharge Elimination System.

401 KAR 5:320. Wastewater Laboratory Certification Program.

Department of Natural Resources: Division of Mine Permits: Strip Mining of Coal

405 KAR 1:011. Repeal of 405 KAR Chapter 1.

Surface Effects of Underground Coal Mining

405 KAR 3:011. Repeal of 405 KAR Chapter 3.

JUSTICE AND PUBLIC SAFETY: Department of Criminal Justice Training: Law Enforcement Foundation Program Fund

503 KAR 5:090. Participation: requirements; application; withdrawal.

Department of Juvenile Justice: Child Welfare

505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services.

505 KAR 1:140. Department of Juvenile Justice Policies and Procedures Manual: detention services.

TRANSPORTATION: Department of Highways: Division of Contract Procurement: Pre-construction

603 KAR 2:015. Prequalification for construction, certificate of eligibility, and contract claims dispute.

PUBLIC PROTECTION CABINET: Department of Charitable Gaming: Charitable Gaming

820 KAR 1:001. Definitions.

SUMMARY: Amends to delete or modify definitions.

820 KAR 1:005. Charitable gaming licenses and exemptions.

820 KAR 1:011. Repeal of 820 KAR 1:010, 1:015, 1:016, 1:017, 1:026, 1:027, 1:028, 1:029, 1:033, 1:034, 1:036, 1:044, 1:056, 1:058, 1:100, 1:110, 1:120.

820 KAR 1:025. Reports.

820 KAR 1:032. Pulltabs.

820 KAR 1:042. Bingo.

820 KAR 1:050. Raffles.

820 KAR 1:055. Charity fundraising event standards.

820 KAR 1:057. Recordkeeping.

820 KAR 1:060. Prohibited conduct.

820 KAR 1:125. Gaming inspections.

820 KAR 1:130. Administrative actions.

820 KAR 1:135. Disposal of gaming supplies.

HEALTH AND FAMILY SERVICES: Department for Aging and Independent Living: Division of Operations and Support: Guardianship

910 KAR 2:030. Accounting provisions for adult guardianship.

910 KAR 2:052. Repeal of 910 KAR 2:050.

The subcommittee adjourned at 2:30 p.m. The next meeting of the subcommittee is tentatively scheduled for August 14, 2018, at 1 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

June 25, 2018

Call to Order and Roll Call

The June meeting of the Public Pension Oversight Board was held on Monday, June 25, 2018, 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; Representative Jerry T. Miller, Co-Chair; Senators Christian McDaniel, Gerald A. Neal, Dennis Parrett, and Wil Schroder; Representatives Ken Fleming, DJ Johnson, James Kay, Arnold Simpson, and Russell Webber; J. Michael Brown, Timothy Fyffe, Mike Harmon, and James M. “Mac” Jefferson.

Guests: Jennifer Black Hans and Bo Cracraft, Legislative Research Commission; David Eager, Executive Director, Kentucky Retirement Systems; and David Harris, Chairman, Kentucky Retirement Systems Board of Trustees, and Beau Barnes, Deputy Executive Director, Teachers’ Retirement System

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

Approval of Minutes

Senator Bowen moved that the minutes of the June 4, 2018, meeting be approved. Representative Fleming seconded the motion, and the minutes were approved without objection.

Representative Miller welcomed Representative D.J. Johnson to the Public Pension Oversight Board (PPOB).

Senate Bill 2 Compliance Review

Jennifer Black Hans discussed the PPOB’s review of 2017 SB 2. The PPOB recommended passage of SB 2, enacted during the 2017 Regular Session, to provide transparency and accountability measures for the state-administered retirement systems. On December 18, 2017, the PPOB adopted a new recommendation directing staff to conduct a review of the effectiveness of the 2017 pension transparency reforms instituted under SB 2 and to report findings to the board.

Ms. Hans summarized SB 2, which includes provisions relating to Governance, Fiduciary Duty and Conflict of Interest, State Codes, including Kentucky’s Model Procurement Code and State Personnel System governed by KRS Chapter 18A, and Transparency. Under Governance, each retirement system must have Senate confirmation of the gubernatorial appointees to its board of trustees; investment experience is required for the appointees. SB 2 changed the board composition for the Kentucky Retirement Systems (KRS) and the Teachers’ Retirement System (TRS). The Fiduciary Duty and Conflict of Interest provisions for all systems reconfirmed the fiduciary duties imposed under HB 300 in 2012, refined the current ban on placement agents, and required adherence to the CFA Institute’s Code of Conduct for staff, trustees, and contracted investment advisors. All systems are

subject to the Model Procurement Code, and KRS is subject to the State Personnel Merit System under KRS Ch. 18A. New transparency requirements include quarterly reporting of investment performance, fees, and commissions for all systems.

In response to a question from Representative Miller, Mr. Cracraft stated that carried interest is an incentive arrangement utilized by many nontraditional asset class managers. After the agreed upon preferred return rate is exceeded, the general partner and limited partner may share any additional return.

Ms. Hans said that the new law requires disclosure of contracts and offering documents relating to services, goods, or property purchased or utilized by the systems. The confidentiality provision relating to the public disclosure of investment contracts was retained, allowing redaction of portions of the contracts, except that investment contracts must be fully disclosed to the board, Auditor, and the Government Contract Review Commission upon request. For investment contracting, a procurement policy is required, including adoption by the board and approval by the Secretary of Finance. SB 2 had an emergency clause, thus some of its provisions went into effect March 10, 2017.

Ms. Hans stated that, as a first step in the PPOB’s evaluation of SB 2, staff gathered information from each of the systems to review compliance in the areas of Governance, Fiduciary Duty and Code of Conduct, State Codes, and Transparency. The Judicial Form Retirement System (JFRS) is in compliance with all topics except Governance, which is pending due to the gubernatorial board members’ expiring terms on June 30, 2020. Subsequent appointees will require investment experience and Senate confirmation. KRS is in compliance with Governance and State Codes and in partial compliance with Fiduciary Duty and Code of Conduct for investments under which KRS is a limited partner in a commingled fund (including private equity, real estate, and majority of absolute return). The general partners for these funds have not been contacted regarding SB 2 requirements.

In response to a question from Mr. Fyffe, Mr. Cracraft stated that several of the one-to-one investment management contracts are on the KRS website, and a few of those are not redacted.

KRS is in partial compliance with the transparency requirements. The majority of Limited Partnership Agreements (LPA) (92) are not currently available on the KRS website. These LPAs, which include private equity, real estate, and majority of absolute return, contain language that prohibits KRS from making the documents public or would likely subject KRS to litigation from general partners if made public. TRS is in compliance with Governance and in partial compliance with Fiduciary Duty and Code of Conduct provisions as it relates to the external investment managers. For investment contracts executed prior to SB 2, managers are subject to fiduciary duties and an investment policy that met

or exceeded the “Asset Manager Code of Conduct.” TRS did not notify all current external investment managers of the “Asset Manager Code of Conduct.”

In response to a question from Senator Bowen, Ms. Hans stated that with SB 2, Kentucky was one of the first few states to adopt the specific CFA Institute Standard (CFA). It varies on whether investment managers take the additional step of adopting the CFA. It is an industry standard, but in some cases compliance is presumed as opposed to verified. CFA has no requirement that these investment managers indicate whether they are participating.

TRS is in partial compliance with State Codes in following the MPC for nearly all contracts executed on or after July 1, 2017. Contracts used during FY 2018 were adopted prior to this effective date. A pre-SB 2 contract for janitorial services was extended six months to facilitate converting the contract term to the fiscal year. TRS is also under partial compliance with Transparency due to recent quarterly aggregate investment holdings, fees, and commissions that are pending finalization for publication on their website. The dollar value of profit sharing, carried interest, and other performance related fees is not available, and only one investment manager contract appeared to be available.

In response to a question from Representative Miller, Ms. Hans stated that KRS and TRS use similar companies, but she could not say why the contracts between the two systems are different and why TRS had investment advisors who objected to the release of proprietary information.

In response to a question from Senator Parrett, Ms. Hans stated that as of March 31, 2018, the dollar value of profit sharing, carried interest, and other performance related fees should have been reported by TRS.

Auditor Mike Harmon said that his office is conducting a financial statement audit of KRS. He appreciates the efforts of the PPOB, and the efforts of the General Assembly with SB 2.

Ms. Hans stated that TRS notified PPOB that its prior financial audit included all unredacted contracts.

Senator Bowen said that SB 2 passed both chambers unanimously, which says a lot about the goal to be accomplished with and the intent of this legislation. The General Assembly intended for SB 2 to be complied with fully, not partially.

Asset Allocation Update - KRS

David Eager noted the importance of asset allocation and summarized the process KRS utilizes. First, he stated that there is a need for plans to determine which asset classes KRS wanted to invest, which currently includes a broad range of options, including a variety of alternative products. Secondly, plans must determine the securities from each asset class. This generally comes later in the process, but there are rules of liquidity, turnover, and capitalization. KRS evaluates the characteristics of each asset class by volatility, income, liquidity, growth potential, drivers,

and correlation to other asset classes. Mr. Eager referenced the expected returns and correlation of several asset classes and said that KRS is trying to figure out the best combination that produces the highest return and lowest risk. Third, Mr. Eager noted that KRS assesses the need of each underlying plan by considering their risk tolerance, growth, volatility, cash flow, and income. Lastly, any constraints or limits on particular asset classes are incorporated into an optimization model that considers several simulations to project expected returns and risk.

David Harris reviewed the recent background (since 2016) of KRS as it speaks directly to asset allocation. He discussed the reduction in hedge funds, which at one point accounted for \$1.8 billion or about 10 percent of KRS monies. Hedge funds are useful, and KRS will still invest about \$300 million going forward, but KRS is redeeming assets from many hedge funds that were overlapping existing cheaper strategies. Mr. Harris noted the board's focus on cash flow and specifically the assumptions that were being used to estimate contribution rates. He noted payroll growth assumptions, inflation expectations, and the discount rates being used by actuaries and consultants that were not necessarily consistent with the plans actual experience. As a result, the board made many changes, both to assumptions and the system's consultants, which has led to a reduction in expenses and better performance. Performance went from 75/80th percentile to 19th percentile out of all public pension funds in the last two years. The board's job is to make sure there is enough money to make the benefit payments and providing the legislature with accurate projections of what the plan actually needs. This has resulted in the board recommending new economic assumptions in 2017, such as lowering the assumed rate of return and payroll growth assumption, while raising liquidity of the plans.

Mr. Harris said that KRS had hired Wilshire Consulting to perform an asset/liability study and recently recommended new asset allocations that were adopted by the board in June, 2018. He discussed how KRS has diversified assets into three primary strategies; Growth, Liquidity, and Diversifying Strategies. The plans with more cash-flow constraints (Kentucky Employees Retirement System NH and State Police Retirement System) have more liquidity and fewer growth assets, which results in a portfolio that has a much higher probability of meeting its assumed rate of return. The remaining plans have more liquidity, so the plans have more traditional growth assets, such as public equity.

In response to a question from Representative Simpson, Mr. Harris stated the board considers a larger, longer time period of 10 to 15 years to forecast the assumed rate of return. The board reviews assumptions on an annual basis.

In response to a follow up question from Representative Simpson regarding hardship to local government when KRS has an unduly low assumed rate of return, Mr. Eager emphasized KRS' role and

fiduciary responsibility to members of the plan. The staff and board of KRS recognize that the changes made to assumptions have had significant impact and have put employers in a tough spot. Mr. Harris referenced the legislature's decision to phase-in the County Employees Retirement System (CERS) rates, which he commended, but he said the board's responsibility was to provide the most accurate estimate of what the plan needs to become healthy.

In response to a question from Senator Bowen, Mr. Harris stated that he was comfortable with the 6.25 percent return for CERS.

In response to a question from Representative Kay, Mr. Harris stated that KRS is watching the penalties and fees before withdrawal from hedge funds.

Review of Actuarial Assumptions -TRS

Beau Barnes discussed periodic experience studies, which are generally conducted every five years for TRS by an actuary. The experience study is a review of actual experience over the prior five years relative to the actual assumptions in place. Mr. Barnes noted that TRS considers and projects assumptions over a 30-year time frame given the liability is being paid off over a closed 30-year amortization period. The last study was conducted in September of 2016 and covered the period ending June 30, 2015. As a result of the study, the price inflation assumption was lowered from 3.5 percent to 3 percent, wage inflation was lowered from 4 percent to 3.5 percent, and assumed rates of withdrawal, disability, retirement, and mortality were adjusted to better match actual experience of the system. These changes decreased liabilities by about \$297 million.

Mr. Barnes discussed the investment rate of return assumption and reviewed the factors considered by actuaries, such as long-term historical information, recent experience, forward-looking projections based on current capital market assumptions, as well as peer system comparison. He highlighted investment performance for TRS as of March 31, 2018, saying that TRS outperformed the benchmark over the most recent quarter, 10-year, and 20-year periods. The system' had a 30-year compounded gross return of 8.43 percent. Looking at the most recent fiscal year, TRS returned 15.02 percent net of fees, which was among the best returns in the country. Mr. Barnes discussed historical market returns for the years of 1926-2017, and said that the recent NASRA study of discount rates concluded that TRS was in the middle of assumptions being used.

In response to questions from Senator Bowen, Mr. Barnes stated that other public pension plans are trending downward into the 7 to 8 percent NASRA range. Each of the state systems are different from one another and have their own challenges. TRS' actuaries are trying to provide the best assumptions to pay off the unfunded liability.

In response to a question from Representative Miller, Mr. Barnes stated that the RFP for actuarial services is complete, responses have been scored, and

vendors have been chosen. TRS is in the contract negotiation stage and expects to have the contracts available for review by the end of the week.

Mr. Barnes discussed payroll growth for teachers, saying that payroll averages for the last 10-year period was 1.84 percent, the 20-year period was 3.15 percent, and the 30-year was 4.04 percent. The 10-year average included the Great Recession. The payroll growth assumptions are based on payroll growth projections over 30 years, and TRS' assumption is lower than the 30-year average. Moving to a level-dollar method of amortization method to address the unfunded liability will make the payroll growth assumption irrelevant.

In response to a question from Senator Bowen, Mr. Barnes stated that the last 10 years have been lackluster and largely impacted by the Great Recession. TRS considers this a 30-year assumption and is trying to pay off the unfunded liability over a 30-year period. Looking longer term, TRS believes the next 30 years will look more like the last 30 years rather than the last 10 years. TRS sees 3.5 percent as a realistic 30-year projection.

In response to a question from Sen. Bowen regarding the amount of unfunded liability created by the plan not experiencing the assumed payroll growth, Mr. Barnes stated that if TRS remains at 1.84 percent, then there would be an increase in the unfunded liability without additional funding. He noted that the sensitivity analysis in the systems' annual financial reports provides estimated financial impacts for changes in each assumption. Payroll growth was lowered as a result of the experience study conducted in 2016. If TRS moved to a level-dollar method of amortizing the unfunded liability, then payroll growth becomes irrelevant. Senator Bowen said that assumptions cannot be set at what can be afforded; rather, realistic assumptions must be used.

Mac Jefferson said that a simplistic way of going back and reviewing the reasonableness of investment return assumptions would be to consider the spread between the 30-year Treasury rate and what TRS' investment managers can earn. Thirty years ago, when TRS' assumed rate of return was 8 percent and TRS out earned it, the 30-year Treasury rate 30 years ago was over 7.5 percent. During the 30-year period, TRS earned less than one percent above the 30-year Treasury. Looking at the past 20 years, TRS' assumed rate of return was lowered to 7.5 percent, but the system was not able to out earn the 7.5 assumption. Twenty years ago, the 20-year Treasury rate was 6.4 percent, thus over the last 20-years TRS has under-earned the risk-free Treasury rate. Referencing current markets, Mr. Jefferson noted the 30-year Treasury rate was at about 3 percent compared to TRS' assumed rate of return is 7.5 percent. Given this spread, TRS is assuming it will dramatically out earn the 30-year Treasury, although this is something that TRS has never done in past history. The 30-year Treasury rate acts as a form of gravity for investment returns and how difficult it is for managers to consistently out

earn this rate over long periods of time, which is why so many plans are reducing assumptions across the country. Mr. Jefferson urged TRS to not wait for the next experience study to take a serious look at TRS' assumed rates of return and encouraged TRS to apply common sense to its request to the legislature to address underfunding.

Representative Miller stated that he would like to have Mr. Barnes back at another time with TRS' Board Chairman to discuss the assumptions.

Mr. Barnes said the historical inflation from 1926 to 2017 reflected an average rate of inflation of 3.8 percent for all 30-year periods. Many indications are that TRS is heading into a higher interest rate period.

Senator Bowen said that he did not understand how TRS was only in partial compliance with SB 2, especially with the dollar value of profit sharing, carried interest, and other performance related fees, and recommended that TRS return to address this issue.

Representative Miller discussed the establishment of the subcommittee to study the separation of CERS from KRS. The co-chairs will be Senator Schroder and Representative Webber, with members being Senator Higdon, Senator Parrett, Representative Johnson, Representative Simpson, John Chilton, and Mac Jefferson. The subcommittee will return with a recommendation by or before December of 2019.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Monday, August 27, 2018.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE Minutes

July 18, 2018

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, July 18, 2018, at 1:30 PM, in Room 131 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order at 1:36 PM, and the secretary called the roll.

Present were:

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

Guests: Adam Meier, Secretary, Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services; Jill Hunter, Commissioner, Alisha Clark, RN, Human Services Program Branch Manager, Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; Jason Gerling, Managing Consultant, Navigant; Betsy Johnson, President, Kentucky Association of Health Care Facilities, Executive Director, Kentucky Center for Assisted Living; Jay Trumbo, Chief Financial Officer, Health Systems of Kentucky; Wayne Johnson, Vice President of Finance,

Kentucky Association of Health Care Facilities and Kentucky Center for Assisted Living; Lisa Barker, Case Manager, Rankin's New Leaf Supports Case Management; Carolyn Wheeler, Power of Attorney for Linda Montgomery; Linda Montgomery, Michelle P. waiver recipient; James Bonar, waiver recipient; Gwen Bryant, waiver recipient; James Whitlock, waiver recipient; Steven Whitlock; Terri Thomas, Chief Program Officer, Harbor House of Louisville; Joseph Martin, Martin Case Management; Cheri Ellis-Reeves, Oakwood Residential Facility; Karen House, Family Intermediate Care Facility; Laura Lilly Stephens, Senior Helper; Kathy Utterback; Terry Elder, waiver recipient; Mary Ellis; Lillian Bassett, Parent Relative Organization for Oakwood Facility (PROOF); and Bill Dolan, Attorney, Kentucky Protection and Advocacy.

LRC Staff: DeeAnn Wenk, CSA and Becky Lancaster.

Changes to the Home and Community-Based Services Waiver Recipient Liability

Jill Hunter, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), stated that beginning August 1, 2018, all Home and Community-Based Services (HCBS) waiver program participants will be asked to pay their full patient liability in order to maintain waiver services in compliance with applicable federal regulations. She stated that failing to pay full patient liability puts a participant's eligibility for Medicaid or waiver services at risk.

Jason Gerling, Managing Consultant, Navigant, stated that within the 1915(c) waiver application at a federal level the state has the ability to set its own formulary for establishing the post-eligibility treatment of income. The goal of the post-eligibility treatment of income is to reassess what contribution the HCBS waiver participant needs to make to DMS. States may allow the following deductions from a participant's total income when they establish that formulary; the state's maintenance allowance, an allowance for the needs of the participant's spouse and family, and an allowance for medical and remedial care needs. The remaining income after the allowances is the patient liability.

Commissioner Hunter stated that in late 2017, letters were sent to providers notifying them of impending changes regarding patient liability. In May of 2018, the DMS fiscal intermediary pulled participant data in error resulting in incorrect letters and letters sent to non-waiver participants. On June 29, 2018, DXC Technology sent corrected patient liability letters to the correct participants. The patient liability changes need to be made to ensure that DMS is compliant and the Commonwealth is able to provide waiver services.

In response to questions from Senator Alvarado, Commissioner Hunter stated that in regards to the 1915(c) waiver, DMS has been out of compliance for at least five years. DMS staff identified the issue through an internal audit. The personal liability was

lower for some recipients than it should have been if the formula in Kentucky's Medicaid state plan had been correctly applied.

Lisa Barker, Case Manager, testified that one of her clients in the Supports for Community Living (SCL) waiver program has seen her patient liability payment go from \$320 a month to \$975 per month. The client's participant directed supports (PDS) allows the client to live on her own with a personal assistant helping her to live in the community. The increase in the payment has caused a financial hardship and if the payment is not lowered her client must choose between living in the community or paying the patient liability upcharge. The Kentucky Department for Aging and Independent Living (DAIL) encourages clients to live their own lives with services allowing them to become normalized in the community.

Carolyn Wheeler, volunteer, Power of Attorney, testifying on behalf of Linda Montgomery, stated that since 2008, Ms. Montgomery has been on the Michelle P. Waiver (MPW) program and receives a Social Security Disability Insurance (SSDI) payment from her own work record. Ms. Montgomery's patient liability was \$200 a month and will rise to \$1097 a month on August 1, 2018. Ms. Montgomery faces a dilemma of paying her bills or her patient liability costs. She stated that patient liability penalizes people who work because it increases the liability and is inconsistent with the Centers for Medicare & Medicaid Services (CMS) final rule that encourages people to have a life of their own in a community. Increasing the personal needs allowance to 100 percent or 200 percent of the federal poverty level would reduce the patient liability and help people to have sufficient funds to pay the fee.

Bill Dolan, Attorney, Kentucky Protection and Advocacy, stated that there is a choice that CHFS and DMS can make to increase the personal needs allowance to allow people to live in the community and independently. He stated that Kentucky has a much higher deduction than surrounding states that use 300 percent of the federal rate for the personal needs allowance. DMS can send waivers to CMS to change the personal liability rates.

James Bonar, waiver recipient, stated that his waiver payment will increase to \$1240 a month. His income is less than the \$200 cap for SSDI and he cannot afford the payment increase. If he has to pay the full amount he will have to move into a retirement home or elsewhere. He would like to have the personal liability payment lowered.

In response to questions from Representative Moser, Mr. Gerling stated that based on a scan of state and federal policies, Navigant has advised CHFS of the option to expand the personal needs allowance. States have flexibility to go between the standard of 100 percent Supplemental Security Income (SSI) up to 300 percent SSI.

Gwen Bryant, waiver recipient, testified that after the incorrect letters were sent she had trouble getting information and had to make several calls to

CHFS before finding answers. Her liability payment has increased from \$325 to \$1097 per month. She was asked to pay the June, July, and August payments by August 1, 2018. She stated that she could not afford the payment because with Medicaid she is not allowed to save more than \$2000. She stated that if she could find a job accommodating her disabilities, she is not allowed to make more than \$200 a month. She stated that if she has to pay the increased patient liability amount, it will force her into a nursing home.

Steven Whitlock, testifying on behalf of James Whitlock, waiver recipient, stated that the HCBS waiver home page declares the HCBS waiver program provides services and support to elderly, children, and adults with disabilities to help them to remain in or return to their homes. He stated that the 335 percent increase in the monthly liability payment is beyond his brother's means because he is on a fixed income. In the HCBS waiver process, each person goes through a screening process before being accepted, visited by a support worker monthly, and is recertified every year by an independent third party leaving no room for fraud as with other systems. If liability is increased and patients are unable to pay, they will be forced to seek refuge in nursing homes or become homeless.

Cheri Ellis-Reeves, Oakwood Residential Facility, stated that the spectrum of intellectual disabilities include the mentally retarded and non-verbal that require one on one, and 100 percent guidance for daily living. She stated that facilities provide oversight and accountability for participants. She hopes that Oakwood would remain a long-term care (LTC) facility and not have to become a short-term only care facility.

Terry Elder, waiver recipient, stated that her liability payment went from \$320 to \$1146 a month and she cannot afford the increased cost. She stated that the waiver program allows her to enjoy her community, friends, and church.

Mary Ellis, testifying on behalf of Terry Elder, stated that Ms. Elder is devastated by the increase in her liability payment. Ms. Elder believes her option is to the pay the waiver and do without other services or go to a nursing facility. Ms. Elder needs special care, equipment, and medical supplies that the waiver program does not provide but she pays for out of her own money. The waiver program increase will cause her to have less than \$500 a month for supplies, food, vision care, and other various bills. Ms. Ellis stated that she assists Ms. Elder seven days a week however, the Bluegrass Area Development District (BGADD) will only pay Ms. Ellis for 40 hours of care. Ms. Elder's husband lives with her, his income is added to her income but his living expenses and circumstances are not subtracted from her liability. He is not physically able to care for her and has medical issues that are not taken in account when calculating her liability payment.

In response to questions from Representative Jenkins, Commissioner Hunter stated that patient liability is supposed to be created based on dollars

coming into the member. The payment is the participants' monthly responsibility. She stated that DMS will have experts review the math in individual cases similar to the cases shared in the meeting. The maintenance allowance is an allowance for the needs of the participant, spouse, family, as well as, medical and remedial care needs. DMS does have an opportunity during the waiver redesign to improve this issue. Commissioner Hunter stated that she will need to discuss and ask if the August 1, 2018 deadline for payments can be reevaluated. She stated that if a person is in a LTC facility, receiving Medicaid, and on a waiver waiting list, there is patient liability. However, if that person is on a waiver waiting list and only has regular Medicaid, there would not be an implied patient liability because the person would not be receiving waiver services.

In response to questions from Senator Carroll, Commissioner Hunter stated that DMS has been incorrectly administering the patient liability portion of the HCBS waiver. The amount that DMS would collect from the individuals was calculated incorrectly. Previously the liability payment was capped based on what the provider was reimbursed because it was tied to a primary provider. The issue was discovered approximately six months ago. Letters went out in late 2017 to providers notifying them of impending changes. In May 2018, incorrect letters were sent to people who do not receive waiver services. Those participants assumed they would have to start paying patient liability for traditional Medicaid services. In June of 2018, correction letters were sent out to all participants.

Commissioner Hunter stated that the changes will impact providers because providers may need to collect the patient liability. The changes will not impact reimbursement to the provider directly but it impacts the individuals based on their eligibility. She stated that DMS will recalculate and think about the issue when operationalizing. She agreed that this as an emergency that needs to be dealt with promptly.

In response to questions from Representative Wuchner, Commissioner Hunter stated that approximately 19,000 letters were sent to non-waiver participants. Letters of apology and explanation letters were sent by the fiscal intermediary free of charge.

In response to a question from Senator McGarvey, Commissioner Hunter stated that she has the complete support of her leadership and finding money to fund the waiver programs would help DMS.

In response a question from Representative Moser, Commissioner Hunter stated that retroactive payments in the redesign could be reconsidered.

In response to questions from Senator Alvarado, Commissioner Hunter stated that she will need to do more research to know how soon a change to the liability payment could be implemented. She stated that if there are positive things DMS can do now during redesign, the department will proceed as long as it is legal and approved by CMS.

Changes to the Kentucky HEALTH 1115 Waiver

Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services, stated that based on the June 29, 2018, legal decision, the Kentucky HEALTH 1115 waiver changes did not begin on July 1, 2018 as planned. The court ruling gave the Kentucky HEALTH team 30 hours to identify how the court ruling affected systems integration, types of healthcare coverage, and planned communications with stakeholders. The court ruling has prevented CHFS from using the My Rewards program as the legal mechanism to pay for dental and vision coverages for those beneficiaries in the Alternative Benefit Plan (ABP). The judge's order did not rule any portion of the Kentucky HEALTH 1115 waiver components to be unlawful. The judge's order removed the Kentucky HEALTH 1115 approval based on what the judge interpreted as missing from specific consideration in the approval decision--the provision of medical assistance and the impact on coverage.

The Kentucky HEALTH team is working with the Governor's office, CMS, Health & Human Services Cabinet (HHS), and Department of Justice (DOJ) toward a re-approval. No decision has been made in regards to seeking an appeal of the judge's ruling. Individuals in the ABP do not have routine dental and vision coverage. The Kentucky HEALTH website and social media pages have been updated regularly with information about how the legal ruling has effected beneficiaries, providers, and stakeholders.

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that traditional Medicaid participants, the aged, blind, and disabled, were not included in Kentucky HEALTH 1115 waiver. Medicaid populations included in the Kentucky HEALTH 1115 waiver were non-disabled adults and children. Typically, CHFS has more than 30 hours to test language and get feedback but CHFS had to put language and updates immediately into the system.

In response to questions from Representative Gooch, Secretary Meier stated that he does not think the ruling had an impact on the development of the request for proposal (RFP). The contract procurement team has been working on that RFP. The number of plans administered next year will depend on the response to CHFS from the managed care organizations (MCOs) and prospective vendors.

In response to questions from Representative Jenkins, Secretary Meier stated that he signed off on a response letter to the House Minority caucus. The letter should be printed, copied, and distributed to the caucus. He stated that he would need to get clarification on the multiple copayment issue. Copayment enforcement is a separate issue, although it happened at the same time as the Kentucky HEALTH rollout. The state benefit plans already had these policies, so there are no changes to policies other than requiring that the MCOs no longer waive the copayments. Commissioner Hunter stated that anyone except the MCOs can pay the copayment.

There are some restrictions around a provider paying the copayment. The provider must have a consistent policy in place.

In response to a question from Representative Moser, Secretary Meier stated that there are several federal agencies involved in making the decision on whether or not to appeal the ruling. CHFS would prefer to gain reapproval as quickly as possible to mitigate the down time and the impact of having all the systems and changes lying in wait. CHFS is hopeful that more information will be received soon but no date has been given.

In response to questions from Senator Meredith, Secretary Meier stated that CHFS has removed the voluntary nature of the pharmacy copayment. Commissioner Hunter stated that the allowable amount for a drug is based on several variables and the average wholesale price (AWP). The allowable amount is not going to change unless it is contractually related to the copayment. Secretary Meier stated that CHFS has spent less than \$10 million for technology upgrades that replaced systems in multiple Cabinets' agencies and workforce boards. The increase in the rate cell is due to the mix of the projected population.

In response to questions from Senator McGarvey, Secretary Meier stated that the comment period regarding the dental and vision plans was included as part of the Kentucky HEALTH 1115 waiver comment period. CHFS moved the dental and vision plans out of the ABP to be paid for by a separate mechanism created by the waiver. There will be significant costs associated with waiver changes. Each round of eligibility notices costs approximately \$500,000 to send to members. CHFS had planned on the My Rewards program having dental and vision coverage available to ABP members. CHFS spends approximately \$60 million annually on dental and vision coverage for the expansion population.

In response to a question from Representative Gibbons, Deputy Secretary Putnam stated that CHFS wants to make clear that the judge did not rule on whether community engagement was legal for Kentucky to pursue as part of Medicaid. The ruling simply set aside the approval; the components were not part of the ruling.

In response to questions from Senator Alvarado, Deputy Secretary Putnam stated that there are approximately 460,000 people in the ABP, of which about 373,000 do not have access to routine dental and vision care. Secretary Meier stated that if the waiver is fully initiated then the My Rewards funding would be instituted and the dental and vision coverage would return.

Overview of Long-Term Care Programs

Betsy Johnson, President, Kentucky Association of Health Care Facilities (KAHCF), Executive Director, Kentucky Center for Assisted Living, stated that KAHCF is the primary association that represents propriety and nonproprietary nursing facility providers, personal care homes, and assisted living communities. Nursing facility providers are

responsible for generating almost 42,000 direct jobs statewide. Medicaid accounts for 56 percent of the nursing facility revenue and 69 percent of the nursing facility residents. Kentucky has one of the highest acuity levels in long-term care in the United States.

Jay Trumbo, Chief Financial Officer, Health Systems of Kentucky, stated that Kentucky nursing facility providers have faced unprecedented general and professional liability costs due to predatory trial attorney practices. Obtaining a qualified workforce has become more difficult with the low unemployment rates and the competition in other health care fields. The loss rate is defined as the amount per occupied bed required to settle, defend, or litigate claims within a year. Kentucky has shown an increased loss rate over the past 10 years. These costs, absorbed by nursing facilities, take away dollars that could otherwise be used for patient care. The wage costs have steadily increased over the past 10 years for registered nurses (RN), licensed practical nurses (LPN), and nurse aides in nursing facilities. Medicaid inflationary increases have not kept pace with these and other staff increases.

Wayne Johnson, Vice President of Finance, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living, stated that the urban and rural prices are adjusted quarterly for acuity and annually by an inflationary adjustment determined by DMS. Nursing providers have been paid one-tenth of one percent inflation for the past four years. A proposal by KAHCF assumed that the entire tax increase and federal match be used to pay for the proposed inflationary increase and reimburse the Medicaid share of the tax. The annual impact of the provider tax proposal would have increased taxes by \$.93 per non-Medicare day, providing \$6.5 million in taxes.

In response to questions from Senator Meredith, Ms. Johnson stated that KAHCF's proposal to increase the provider tax was not successful because CHFS had agreed to a change in the rural and urban rate for one large corporate member. There were also concerns about the Medicaid budget. Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services, stated that one of CHFS's concerns was that those funds were received as restricted funds as cash. CHFS may receive the cash but would not have the mechanism to spend the cash. Mr. Trumbo stated that KAHCF felt there was room in the DMS budget to cover those funds. Mr. Bechtel stated that he assumed CHFS had a \$122 million reduction in general funds, brought on from the 6.25 percent budget cuts that normally Medicaid is exempt from. He believes CHFS was anticipating spending some of the restricted cash or allotment on covering some of that hold.

In response to questions from Senator Carroll, Mr. Bechtel stated that the federal match would have equated to about \$16 million in federal dollars. Mr. Trumbo stated that KAHCF is seeing many of the nursing facility insurers get out-of-state policies.

Deductibles on policies for nursing facilities has increased, up to \$100,000 in some cases. Ms. Johnson stated that facilities are seeing increases even if they do not have any claims. The Department of Insurance (DOI) told KAHCF that out-of-state insurance companies writing policies here are not necessarily regulated by DOI, policies are written thru surplus line brokers. Mr. Johnson stated that CHFS could not pay that additional amount to get the federal match for the provider tax because of the restriction of funds.

In response to questions from Representative Wuchner, Ms. Johnson stated that having at least one RN on all shifts is the goal of skilled nursing facilities. KAHCF members are constantly trying to recruit nurses but are competing against hospitals that can pay more because hospitals are reimbursed by commercial insurance.

In response to questions from Representative Gooch, Ms. Johnson stated that the KAHCF board decides its priorities and considers what is best for the entire nursing facility community. There are very few private pay facilities that do not accept Medicaid. Any nursing facility that receives Medicaid funds would benefit from the increased provider assessment.

In response to a question from Senator Meredith, Mr. Bechtel agreed that increasing provider reimbursement before the provider tax can go into effect is a cash flow problem for the state.

In response to questions from Senator Alvarado, Ms. Johnson stated that KAHCF fully supports the Medicaid waiver work requirement. KAHCF has asked CHFS to file for a Community Networks Program (CNP) grant that will allow money that a facility has paid to the state as a result of a bad survey to go into a fund that would be used for patient care.

In response to questions from Senator Alvarado, Ms. Johnson stated that KAHCF believes that assisted living communities decide to join the association because they want education and quality initiatives and to participate in quality awards at the state and federal level.

Long-Term Care Costs and Alternatives

Jill Hunter, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that effective July 1, 2017, methodology to define urban versus rural providers was changed to Core-Based Statistical Area (CBSA) designations. The change provided \$12 million additional reimbursement dollars to nursing facilities. All price-based nursing facilities will be appraised with updated depreciated replacement costs to be used in the July 1, 2019 rates. The Kentucky Level of Care System (KLOCS) will allow seamless data transmission between Benefind and Carewise. The level of care regulations should be filed by August 15, 2018 and will change the initial assessment timelines and lower the level of effort by the facility.

In response to a question from Representative Moser, Commissioner Hunter stated that DMS has a team and the Inspector General reviewing the different provider types and assessing what DMS can

do to improve reimbursements.

Adjournment

There being no further business, the meeting was adjourned at 3:59 PM.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

June 19, 2018

Call to Order and Roll Call

The June meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, June 19, 2018, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Alice Forgy Kerr, Gerald A. Neal, and Mike Wilson; Representatives Derrick Graham, Regina Huff, and Steve Riley.

Guests: Erin Klarer, Vice President of Governmental Relations, Kentucky Higher Education Assistance Authority; Wayne Young, Executive Director, Kentucky Association of School Administrators; Terri Collins, Office of Education Accountability; Angie Jones, Office of Education Accountability; and Bryan Jones, Office of Education Accountability.

LRC Staff: Joshua Collins, Lauren Busch, and Maurya Allen.

Approval of February 26, 2018 Minutes

Representative Riley made a motion to approve the minutes of the February 26, 2018 meeting, seconded by Senator Wise. The motion passed by voice vote.

Review of Administrative Regulations

Todd Allen, General Counsel, Kentucky Department of Education (KDE), Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support, KDE, and Whitney Crow, Executive Advisor, Office of Continuous Improvement and Support, KDE, discussed the proposed amendments to administrative regulations. The first regulation was 703 KAR 5:191, repealing 703 KAR 5:190 and 703 KAR 5:260 to better align regulations with requirements of Senate Bill 1 of the 2017 Regular Session and the federal Every Student Succeeds Act (ESSA). There was no action necessary on this item.

The presenters discussed 703 KAR 5:225, which relates to continuous improvement plans for schools and districts. The primary change to this regulation was the removal of references to the accountability system. The changes were to better align regulation with the requirements of Senate Bill 1 and incorporate any material from the repealed regulations that was still necessary. There was discussion of the proposed

LRC staff amendments that were suggested to improve the regulation's clarity. Senator Wise made a motion to adopt the amendment to the regulation, seconded by Representative Riley. The motion passed by roll call vote of 7 Yes votes, 0 No votes, and 0 Pass votes.

The final regulation for review was 703 KAR 5:280 regarding school improvement procedures. The regulation was being amended to comply with Senate Bill 1 and ESSA as well as incorporating information from the repealed regulations as necessary. The regulation identifies the procedures for comprehensive and targeted support schools. Following brief discussion, Senator Wise made a motion to adopt the agency amendment to the regulation. Representative Huff seconded the motion. The motion passed by roll call vote of 7 Yes votes, 0 No votes, and 0 Pass votes.

2017 OEA Annual Report

David Wickersham, Deputy Director, Office of Education Accountability (OEA), Bart Liguori, Research Division Manager, OEA, and Bryan Jones, Investigations Division Manager, OEA, presented the annual OEA report. Mr. Wickersham introduced the new graduate fellows and part-time employees who have joined the staff this interim. Mr. Wickersham covered highlights of the report which show how productive the office is for having such a small staff. In the last year the office responded to 457 written complaints, opened 34 investigations, and closed 48 investigations. Over the course of the last 11 years, the office has finished nearly 800 cases. While the office has investigative authority, the ability to remedy errors is constrained by the separation of powers doctrine. The Attorney General's office has final authority to take action against unlawful school board members, the Commissioner of the Kentucky Department of Education has authority over local district personnel, and the Education Professional Standards Board can take action against those who hold professional certification in the state.

2017 District Data Profiles

Bart Liguori, Research Division Manager, OEA and Albert Alexander, Research Analyst, OEA, discussed the 2017 District Data Profiles research report, which was requested as part of the 2018 Research Agenda approved by the subcommittee last year. It is a source of comprehensive district-level education data and an encyclopedia on the current state of districts across the Commonwealth. Mr. Liguori explained that the District Data Profiles were going to be provided in two parts this year. The first was a paper copy which had been presented to members in the past, as well as an interactive online edition. Mr. Alexander said that the report had received a notable documents award in 2012 by the National Conference of State Legislatures and that this was the 11th year the report had been compiled. He advised members to use caution however when comparing the current report to previous version because there had been significant changes in terms of graduation rate measures, student achievement,

and fund balance percent of change. The purpose of the report is to provide a quick, reliable reference for district information as well as a way to compare districts to the state and to other districts with similar characteristics. The primary data sources for the current report were provided from KDE and the Center for Education Statistics including the School Report Card, Infinite Campus, and the MUNIS program used by all districts.

The profiles contain a data dictionary, 173 district profiles, a state profile, and rankings based on selected measures. Mr. Alexander explained the layout of district data in the document. The Overview and Trends section shows number of students and number of A1 schools in the district. The Demographic Profile provides various demographic breakdowns, including the number of students receiving free and reduced price lunch, those with limited English proficiency, non-white ethnicities. Other sections were Graduation Retention, Attendance, and Discipline. The Staffing section of each profile shows number of classified personnel in a district, number of certified personnel, and teacher experience, as well as a salary schedule for certified personnel based on rank and experience. The Student Performance section includes scores from Advanced Placement exams, the ACT, kindergarten readiness exams, and similar assessments. This was the third year that data had been provided regarding dual credit performance but scores from the five individual components of the statewide accountability system were not included due to changes in the system and KDE's decision not to report them. The Finance section shows the tax rates and SEEK distribution across the state. The average per pupil distribution is \$406,593, but this does not show the wide range of district per pupil property assessments, which vary from a high of \$1.3 million to a low of just over \$100,000. The Finance section of individual district profiles show dollar amounts and rates, as well as end of year fund balance, current expenditures, and fund balance percentages.

Mr. Liguori illustrated how the data is being published online with an interactive feature to allow more comparison among districts. This was a direct result of feedback from previous meetings of the subcommittee where members had expressed a desire to manipulate and compare the data on their own. The profiles will be hosted in this format on the LRC webpage and can be accessed by any internet connected device, including mobile devices such as tablets. The same sections found in the paper report are presented as tabs on the webpage. Mr. Liguori demonstrated how the visualizations can be used to create graphs and heat maps comparing data statewide. He encouraged members to access the material to get a sense of the material. He cautioned members that some districts are outliers, especially smaller districts, and that the data dictionary in the print edition of the report would be a valuable resource when using the online visualizations for explanation of some terms used.

Chairman Elliot thanked the staff for their presentations and agreed that this would be an invaluable tool for legislators and the public.

In response to a question from Representative Graham, Tracy Herman, Legislative Liaison, KDE, stated that she would inquire further as to why the final year of individual component scores were not reported and provide that information. Representative Graham asked about staffing, specifically for Franklin County, and how it was possible, as presented in the report, for a teacher to still be a Rank 3 with so many years of experience. Mr. Alexander said that it was based on many factors and because salary schedule ranks must be adopted to span 30 years.

Following these questions, Senator Wise made a motion to accept the reports, seconded by Senator Kerr. The motion passed by voice vote.

There being no further business, the meeting was adjourned at 1:45 p.m.

TASK FORCE ON TAX EXPENDITURES

Minutes of the 2nd Meeting of the 2018 Interim

July 26, 2018

Call to Order and Roll Call

The 2nd meeting of the Task Force on Tax Expenditures was held on Thursday, July 26, 2018, at 10:00 AM, 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 Ken Fleming, Co-Chair; Senators David P. Givens, Morgan McGarvey, and Dennis Parrett; Representatives Jason Petrie, Jim Wayne, and Susan Westrom.

Guests: John E. Chilton, State Budget Director; Daniel P. Bork, Commissioner, Department of Revenue; Greg Harkenrider, Deputy Executive Director, Office of State Budget Director; Jennifer Hays, Committee Staff Administrator, LRC Appropriations and Revenue Committee.

LRC Staff: Jennifer Hays, Amit Shanker, Katy Jenkins, Micah Johnson, and Chase O'Dell.

Top 10 Tax Expenditures and Bottom 5 Percent Tax Expenditures

John E. Chilton, State Budget Director; Daniel P. Bork, Commissioner, Department of Revenue; Greg Harkenrider, Deputy Executive Director, Office of State Budget Director; and Jennifer Hays, Committee Staff Administrator, LRC Appropriations and Revenue Committee, testified on the top 10 tax expenditures and the bottom 5 percent tax expenditures.

Six of the top ten tax expenditures by amount are sales and use tax exemptions. Two of the top ten are related to individual income tax. One is related to real property tax, and another is related to corporation income tax.

Director Chilton testified that eliminating prescription drug, food, residential, and standard

deduction tax exemptions would be regressive. Director Chilton said expanding the standard deduction might be preferable as an offset to some of the other eliminations that might prove regressive in nature.

Director Chilton stated that policy makers should consider the impacts of taxation on market distortions. Market distortions within Kentucky are sensitive to border effects. More than half of people living in Kentucky live in counties that border other states. None of the states that border Kentucky tax pharmaceuticals with prescriptions.

Jennifer Hays testified that prescription drugs, prosthetic devices, and physical aids are tax exempt. All of the tax exempt medical items are defined in statute. Kentucky's definitions are the same definitions that are in the streamlined sales and use tax agreement (SSUTA). A decision to change a defined term would be a violation of SSUTA and would jeopardize Kentucky's participation going forward.

In response to a question from Representative Wayne, Director Chilton said he believes that no state that has a sales tax also taxes prescription drugs.

Food and food ingredients are tax exempt. Alcoholic beverages, prepared food, tobacco, candy, dietary supplements, and soft drinks are exceptions to the tax exemption. Greg Harkenrider testified that it would be easy to administer a tax on food and food ingredients. Mr. Harkenrider went on to say a food and food ingredients tax would probably be regressive.

In response to a question from Representative Westrom, Commissioner Bork explained that the purpose of SSUTA is to have standard definitions across states so that businesses can identify what is and is not taxable. Commissioner Bork went on to explain that SSUTA assists companies in complying with state laws.

In response to a question from Senator Givens, Jennifer Hays said that Kentucky changes its statutes each time the Streamlined Governing Board changes a definition in SSUTA.

In response to a question from Representative Fleming, Greg Harkenrider stated that the Consensus Forecasting Group looks at the trends of prepared foods as well as the trends of everything else in the sales tax base. Mr. Harkenrider also said that prepared food consumption as a percentage of total food consumption has been rising for years. In response to another question from Representative Fleming, Commissioner Bork testified that it is not difficult for the state to administer a food tax, but that it is more difficult for national retailers to comply with the tax rates of different states.

In response to a question from Senator McGarvey, Greg Harkenrider stated that the Office of State Budget Director (OSBD) has information regarding the population of Kentuckians living on a border in each county.

In response to a question from Senator Givens, Commissioner Bork said Streamline will play a

major role in the compliance of online retailers to the Wayfair decision.

Jennifer Hays testified that charitable, religious, and educational organizations are exempt under KRS 139.495. The exemption only applies to entities that have received tax exempt status from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. Only sales to a 501(c)(3) entity are exempt – and only when that purchase is used within the educational, charitable, or religious function of the organization. Sales made by these entities are not exempt. However, per KRS 139.496, all non-profit organizations are exempt from sales tax on the first \$1,000 of sales per year. Commissioner Bork testified that the elimination of tax exemptions for charitable organizations would discourage the formation of exempt organizations and raise the cost of education and other charitable services.

In response to a question from Representative Wayne, Commissioner Bork stated that he was not aware of other states taxing charitable organizations. Director Chilton clarified that the administration was not recommending the elimination or upholding of any tax expenditures.

Residential utilities are exempt from sales tax in Kentucky. Greg Harkenrider said 32 other states either have a sales tax or a utilities gross receipts tax on residential utilities.

In response to a question from Senator McGarvey, Greg Harkenrider stated that in the 32 states that tax residential utilities, it is not generally the case that they use a scale to administer different tax rates based on income. Commissioner Bork added that it would be difficult to administer such a practice.

Sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state are tax exempt. Sales to counties, cities, or special districts are also tax exempt. This tax exemption only applies to purchases for use solely in the government function. Director Chilton testified that taxing sales to government entities would have a budgetary impact that would be adverse to the entities.

Various livestock, feed, seeds, and fertilizers are exempt from sales and use tax. Greg Harkenrider reported that elimination of the tax expenditure on various livestock, feed, seeds, and fertilizers would adversely affect farming communities.

In response to a question from Senator Givens, Commissioner Bork said he believed it would not be difficult to qualify a farmer, but he believed qualifying the goods sold and what they will be used for would be much more difficult.

In response to a question from Representative Wayne, Commissioner Bork stated that a lot of states have agricultural exemptions of some kind. In response to a follow-up question from Representative Wayne, Commissioner Bork explained that giving tax breaks on the annual filing of taxes would be easier administratively for the Department of Revenue, but more difficult for farmers.

Jennifer Hays testified that an individual may elect to itemize their deductions or take a standard deduction. Commissioner Bork stated that House Bill 487 eliminated most itemized deductions. Commissioner Bork testified that raising the standard deduction would help low income individuals.

Social Security benefits taxed at the federal level are exempt for Kentucky income tax. Director Chilton explained that more states tax retirement benefits than tax social security benefits. However, 13 states tax social security benefits.

The state tax rate on real property is reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent. Greg Harkenrider testified that the state real property tax yearly revenue ceiling had a tax expenditure of \$506,100,000 in FY 18. Mr. Harkenrider explained that the tax expenditure is so high because eliminating it would increase the current rate of 12.2 cents to 31.5 cents.

In response to a question from Representative Petrie, Jennifer Hays stated that the four percent cap has not had a function since 2009 other than to possibly limit the growth in property tax receipts. Director Chilton stated that the cap protects taxpayers from enormous increases in property tax when the value of their home increases.

Dividend income received by a corporation has been exempt since December 31, 1969. Commissioner Bork said the corporate dividend income tax expenditure was put into place to avoid double taxation of corporate dividends.

In response to a question from Representative Wayne, Commissioner Bork said there are a few states that tax corporate dividends.

Jennifer Hays testified that 160 of the bottom five percent of tax expenditures had a cost of less than \$1 million each. Jennifer Hays continued to say that another 64 tax expenditures from the bottom five percent ranged in cost from \$1 million to \$11.9 million annually each.

Forty-two tax expenditures, ranging in cost between \$12.2 million and \$120.8 million annually, make up the gap between the top 10 and the bottom five percent of tax expenditures.

In response to a question from Sen. McGarvey, Jennifer Hays clarified that each of the 42 tax expenditures between the top 10 and the bottom five percent range in cost from \$12.2 million to \$120.8 million annually.

In response to another question from Senator McGarvey, Greg Harkenrider stated that roughly \$600 million would be earned per each one percentage point increase in the state sales tax.

In response to a question from Senator McDaniel, Commissioner Bork explained that tax expenditures listed with zero impact are often old tax expenditures that were meant for a specific purpose that is no longer relevant. In some cases, there are very few taxpayers that take advantage, or that can

take advantage because of the definition of the rules.

In response to a question from Senator McDaniel, Greg Harkenrider explained that the OSBD was unable to substantiate the exact cost of the Film Industry Tax Credit because all of the applications had not yet been processed at the time of the completion of the tax expenditure report.

Jennifer Hays said the limited liability entity tax has minimum and reduced rates for small businesses. A business making less than \$3 million in gross receipts pays a minimum rate and a business making between \$3 million and \$6 million pays a graduated rate.

Jennifer Hays testified that it would be difficult for the Department of Revenue to administer an occasional sales tax because it would be required to enforce the tax on every individual that makes a single sale in a year.

Representative Wayne expressed his desire for the Task Force on Tax Expenditures to make a recommendation to the 2019 General Assembly to add a sunset clause when creating new exemptions, and requiring research to justify the reestablishment of any new exemption preceding its sunset.

Representative Petrie expressed his agreement with Representative Wayne and his surprise that there are no sunset provisions for past exemptions. Representative Petrie also stated his desire for all of the tax expenditures to be brought before the legislature when making the budget each biennium.

In response to a question from Representative Fleming, Commissioner Bork stated that the use tax is intended to tax equipment and business assets in the state they are used. In response to a follow up question from Representative Fleming, Commissioner Bork stated that individuals typically pay taxes on an item where they buy it, whereas businesses pay taxes on an item where they use it.

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

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes of the 4th Meeting of the 2018 Interim

August 2, 2018

Call to Order and Roll Call

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Thursday, August 2, 2018, 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, and Dennis Parrett; Representatives Kim King, Phillip Pratt, Rick Rand, and Brandon Reed.

Guests: Warren Beeler, Executive Director,

Governor's Office of Agricultural Policy (GOAP), and Bill McCloskey, Deputy Executive Director, GOAP.

LRC Staff: Kelly Ludwig, Tanya Monsanto, Shelby Bevins-Sullivan, and Rachel Hartley.

Governor's Office of Agricultural Policy Report

Warren Beeler stated that a growing area in agriculture is beekeeping. The Kentucky Beekeepers Association is partnering with state officials to explore the idea of starting a certified honey program. The beekeepers are unable to receive County Agricultural Investment Program (CAIP) funds, but there are cost share programs available.

Mr. Beeler said that there is discussion regarding advancing the agricultural technology programs due to a shortage of large animal veterinarians.

Mr. Beeler discussed his schedule for July through September.

In response to a question from Representative King, Mr. Beeler stated the poultry barn is in the Whitesville area of Ohio County.

In response to a question from Representative Rand, Mr. Beeler stated he has not heard anything regarding how the \$12 billion bailout for farmers from the federal government will be administered.

In response to a question from Senator Meredith, Mr. Beeler stated he has prepared maps pertaining to the Vet Taskforce and will send them to members.

In response to a question from Senator Parrett, Mr. Beeler stated Kentucky's statutes require a veterinarian to be on-site if any medical care is received.

In response to a question from Representative Dossett, Mr. Beeler stated the veterinarians have not responded to the idea of veterinary practitioners because the process is still in development.

Mr. McCloskey described the Agricultural Development Board's projects for June. Mr. McCloskey highlighted programs including CAIP and the Deceased Farm Animal Removal Program.

Requested program amendments discussed included:

-Magoffin County Agriculture Investment Program Incorporated requested an additional \$71,366 in Magoffin County funds for CAIP. The board recommended approval, which would bring the program total to \$131,366.

-Greenup County Conservation District requested an additional \$52,738 in Greenup County funds for CAIP. The board recommended approval, which would bring the program total to \$117,960.

Projects discussed included:

-The Kentucky State Fair Board was approved for \$5,000,000 in state funds to demolish Cardinal Stadium at the Kentucky Exposition Center.

-The Kentucky State Fair Board was approved for \$1,000,000 in state funds to demolish the old Department of Transportation building at the Kentucky Exposition Center.

-The Berry Center, Inc. was approved for

\$5,000 in Henry County funds to purchase mobile cattle scales.

-The Mercer County 4-H Council, Inc. was approved for \$1,500 in Mercer County funds to purchase gates to build pens for small livestock.

-The Jessamine County Future Farmers of America Alumni Association, Inc. was approved for \$5,000 in Jessamine County funds to aid in the expansion of an educational walking trail, including koi pond construction, raised beds, fruit trees, and bee hives.

-The Hancock County Fair Board, Inc. was approved for \$600 in Hancock County funds to purchase small animal holding pens.

-The Hancock County Farm Bureau was approved for \$1,800 in Hancock County funds for the purchase of grain bin rescue equipment to be placed at four local fire departments.

-Pumpkin Vine Creek Farm, LLC was denied for \$40,000 in Madison County funds and \$455,000 in state funds to acquire RediFlame business equipment and startup costs due to limited producer impact.

-Eastern Kentucky University was denied for \$1,258.04 in Madison County funds for their community garden due to no committed county funds and the project was given low priority.

In response to a question from Senator Parrett, Mr. Beeler stated that rose veal comes from a veal calf that is humanely raised.

In response to a question from Representative King, Mr. Beeler stated that there is only discussion of a bee project and a cost-share program. The programs through GOAP are not for hobby farming.

The next meeting will be September 5, 2018. There being no further business, the meeting was adjourned.

Bridges, from page 3

that are being repaired or replaced. Meredith said a list is being maintained on the website bridgingkentucky.com. He said that list would be updated in the next couple of weeks.

Rep. Kenny Imes, R-Murray, urged the transportation department to expedite bridge inspections to avoid lane closures and traffic jams. He said there have been lane closures on the Interstate 24 bridge over the Tennessee River in Calvert City for about three months.

During the last half of the meeting, Robin Brewer of the Transportation Cabinet testified

Ellis Park, from page 3

Ellis Park has been a part of Henderson's tradition for many, many years.

"I would like to personally thank Mr. Geary for his time and effort he has put into the facility to make this a great destination for folks to come and see Henderson and to spend their tourism dollars," he said.

Rep. Suzanne Miles, R-Owensboro, added that the track is also an economic driver.

"We talked about the tourism dollars," she said, "but we did not talk about of economic development we have with all the horses, trainers and all the people that work at this facility. We are so appreciative of them all."

Kentucky Equine Education Project Executive Vice President Elisabeth Jensen testified about the impact of horse racing in the state. Overall, the Kentucky horse industry represents \$23.4 billion of assets.

Triple Crown Winner American Pharoah, for example, has already had an estimated \$45.5 million in stud fees, generating \$2.7 million in state tax revenue, Jensen said. That doesn't include the boost to tourism and interest in Kentucky's horse industry.

American Pharoah is just one of 226 thoroughbred stallions in Kentucky, Jensen said. And that number is just a small fraction of the 242,000 horses in the state.

She added that para-mutual wagering has generated over \$23 million just this year in excise tax for the state.

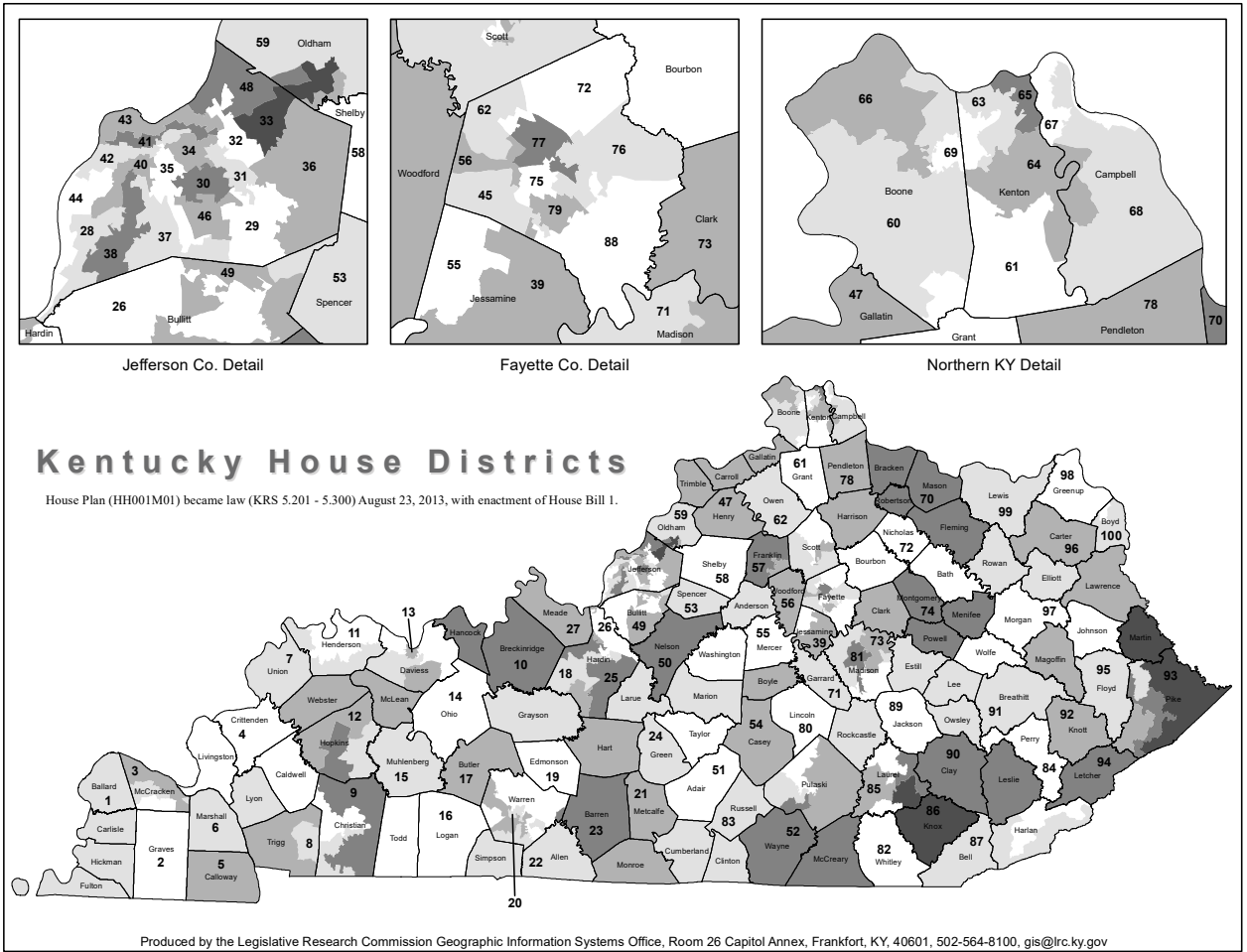
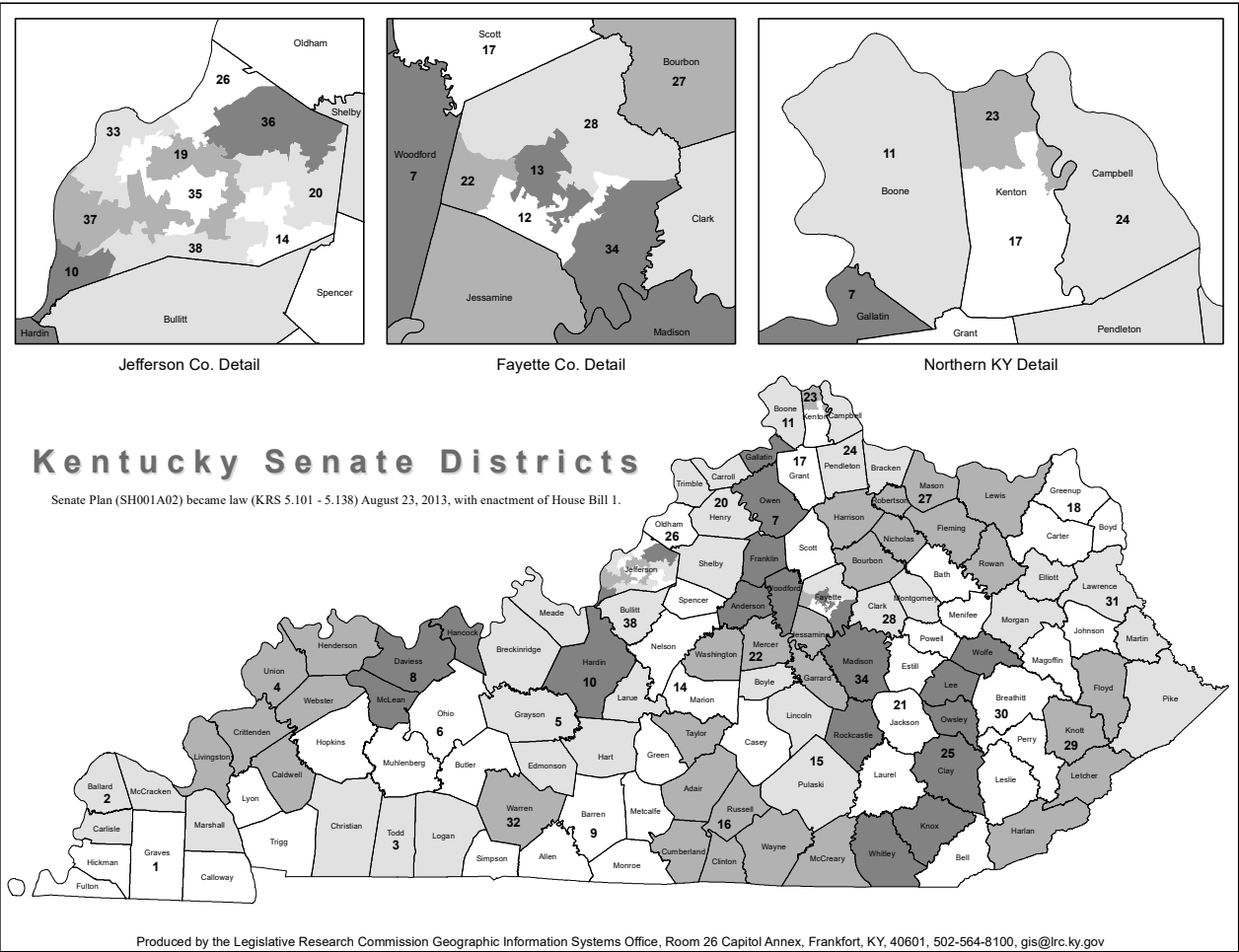
The horse industry supports 44,000 direct jobs and 60,000 indirect jobs.

that the state road fund ended the fiscal year \$7.7 million above the official revised revenue estimate of \$1.5 billion.

Brewer estimates the road fund revenue through fiscal year 2020 to remain \$1.5 billion per year.

"We are not really estimating any additional growth through the biennium," she said. "It's pretty much on autopilot at this point."

The committee's next meeting will be on Sept 12 at the Wayne County Public Library in Monticello.



2018 Interim

LEGISLATIVE RECORD

Published monthly by the Legislative Research Commission, the Interim RECORD is designed to inform the citizens of Kentucky of the between-sessions work of the General Assembly.

Paper subscriptions are free upon request. Contact the LRC Public Information Office, Capitol Annex, Frankfort KY, 40601 at 502-564-8100, ext. 307 to subscribe.

The Interim RECORD can also be read online at www.lrc.ky.gov/legislation.htm. *If you have a paper subscription and would like to end your subscription and read the Interim RECORD online only, please contact the LRC Public Information Office at 502-564-8100, ext. 307.* Stories and photographs may be reprinted without permission, although credit is appreciated.

Printed with state funds

David A. Byerman,
Director
Legislative Research
Commission

Robert Jenkins
Deputy Director for
Committee and Staff
Coordination

Rob Weber
Public Information
Officer

Joe Cox
Publications and Printing
Officer

Rebecca Mullins
Hanchett
Editor, Typography and
Design

Public Information Staff:
Stephanie Newberg
Jeff Fossett
Steve Gatewood
Bruce Phillips
Bud Kraft
Keith Krey
Jim Hannah
Susan Kennedy



The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

Robert Stivers
SENATE PRESIDENT

Jimmy Higdon
PRESIDENT PRO TEM DESIGNATE

Damon Thayer
MAJORITY FLOOR LEADER

Ray S. Jones II
MINORITY FLOOR LEADER

Dan "Malano" Seum
MAJORITY CAUCUS CHAIRMAN

Dorsey Ridley
MINORITY CAUCUS CHAIRMAN

Mike Wilson
MAJORITY WHIP

Dennis Parrett
MINORITY WHIP

David W. Osborne
SPEAKER PRO TEM

Jonathan Shell
MAJORITY FLOOR LEADER

Rocky Adkins
MINORITY FLOOR LEADER

David R. Meade
MAJORITY CAUCUS CHAIRMAN

Dennis Keene
MINORITY CAUCUS CHAIRMAN

Kevin Bratcher
MAJORITY WHIP

Wilson Stone
MINORITY WHIP

2018 Interim

LEGISLATIVE RECORD

KENTUCKY GENERAL ASSEMBLY

700 Capitol Avenue
Frankfort, Kentucky 40601

Change Service Requested

Pre Sorted Standard
U.S. Postage
PAID
Frankfort, Kentucky
Permit Number 308