2019

# INTERIM RECORD

A SUMMARY OF INTERIM ACTIVITIES

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## Ag financing finds new niche in KY, lawmakers told

by Rebecca Hanchett
*LRC Public Information*

FRANKFORT – Funding can hardly keep up with demand for a new niche of state-supported farm loans available in over 50 Kentucky Appalachian counties.

"They tell me they're out of money again, which is a really good thing," Governor's Office of Agricultural Policy Executive Director Warren Beeler told the Tobacco Settlement Agreement Fund Oversight Committee on Aug. 14 about the SOAR (Shaping Our Appalachian Region) Farm Loans offered in Kentucky's 54 Appalachian Regional Commission (ARC) counties in partnership with London-based Kentucky Highlands Investment Corporation.

Beeler said nearly $1 million in state tobacco settlement money has been invested in 141 of the four-year loans, each offered at a maximum of $7,500 and 1-percent fixed rate of interest.

About $750,000 in Kentucky Agricultural Development Fund (KADF) money funneled into the SOAR loans has generated over $1 million in loans to date, Kentucky Highlands Program Director Michael Hayes told the committee. He said the last round of loan funds was received in April and completely loaned out by June 30.

"That $7,500 niche – there's a pretty big demand out there for (that)," said Hayes. "As soon as it comes back in we lend it out. One hundred percent of the money goes to the farmers."


Rep. Kim King, R-Harrodsburg, comments on Kentucky' agricultural programs at the Aug. 14 meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

Responding to questions about loan demand from Committee Co-Chair Rep. Myron Dossett, R-Pembroke, Hayes said there are five or six applicants in queue who qualify for loans right now.

Luckily, he said, more loan funding is making its way back into the program.

Continued on page 3

## Legislators hear how state landed airfreight hub

by Jim Hannah
*LRC Public Information*

HEBRON – Cincinnati/Northern Kentucky International Airport officials briefed a group of state legislators on July 19 on road improvements needed to support a $1.5 billion freight hub Amazon is building at the airfield.

"While the predominance of package movement will be plane to plane, there is also a need to expand road infrastructure," airport CEO Candace McGraw said during the meeting of the Interim Joint Committee on Transportation.

In response to a question from committee co-chair Sen. Ernie Harris, R-Prospect, McGraw named a series of roads surrounding the airport that need improving. She added that the 3 million-square-foot package sorting facility is projected to create 2,000 new jobs.

McGraw said Amazon officials told her they selected the airport for the e-commerce giant's first air hub because it had a great airfield infrastructure that was well maintained, highway infrastructure leading to it, a trained aviation workforce and officials who moved at the speed of business.

Continued on page 3

# Pension relief passed in special session

by Rebecca Hanchett
*LRC Public Information*

Senate Minority Floor Leader Morgan McGarvey, D-Louisville, speaks on public pensions in committee during the July special session while Senate Minority Caucus Chair Johnny Ray Turner, D-Prestonsburg, listens.

FRANKFORT—Five options for over 100 quasi-governmental agencies in Kentucky to get a handle on their rising pension costs have been passed by the Kentucky General Assembly in a five-day special session.

The options found in House Bill 1 would allow the state's approximately 118 quasi-governmental agencies—including local health departments, regional state-supported universities and community colleges, domestic violence shelters and others –to keep their employees in the Kentucky Employees Retirement Systems (KERS) nonhazardous plan at increased costs, or move all or a portion of their employees to an alternative retirement program. Agencies that leave KERS would have to pay their unfunded liabilities, which are earned but yet-unfunded benefits, in either a lump sum or in installments over 30 years.

The bill was approved on a 27-11 vote in the Senate on July 24 after passing the House by a vote of 52-46 on July 22.

HB 1 sponsor Rep. James Tipton, R-Taylorsville, said during House floor debate on HB 1 that Kentucky's quasi-governmental agencies provide essential services that are at financial risk without passage of the legislation. He said the KERS nonhazardous plan currently has only 12.9 percent of the funds it needs to pay future benefits.

"And, while legally these quasi entities have a legal obligation to pay … we understand the difficulties they have and the problems that might arise without passage of legislation that might provide them some relief," Tipton told the House.

Sen. Christian McDaniel, R-Taylor Mill, who is chair of the Senate Appropriations & Revenue Committee, also spoke in support of the bill.

"House Bill 1 addresses the issues confronting some of the agencies that provide critical services on behalf of the commonwealth in every community in our state, be it regional universities, public health departments, rape crisis centers, mental health agencies. They all provide services that are the foundation or safety net for so many in our society."

"If we want to continue to have a great university system, if we want to continue to have social service safety nets ... these are the actions we must take at this particular time in history," McDaniel said.

The cost of implementing HB 1 is projected to potentially be $58.5 million in fiscal year 2021 and $110.5 million in fiscal year 2022, according to a fiscal note attached to HB 1. Included in the cost is the rate freeze, the employer cost to leave the KERS plan, and continued state General Fund appropriations of around $50.2 million per year.

HB 1 would work by extending the one-year freeze on employer retirement contribution rates for quasi-governmental agencies in the KERS non-hazardous plan into fiscal year 2019-2020 while giving agencies the choice to remain in the KERS plan or to voluntarily leave the plan as of that date. Agencies would have between April 1, 2020 and May 1, 2020 to file a resolution stating their intention to stop participating in plan.

Agencies that choose to leave the KERS nonhazardous plan would be required to set up a new defined-contribution, 401(k)-type retirement plan for their employees and pay their unfunded liabilities to KERS. Agencies that remain in KERS would have to pay the full actuarial cost of that decision as determined by system actuaries in accordance with HB 1. Agencies could also allow current defined-benefit employees hired before 2014 to remain in KERS by paying the full actuarial cost.

Employees now in the KERS nonhazardous defined-benefit plan who are moved to a new plan would retain their earned benefits, but would not be eligible for a defined-benefit plan under HB 1.

Tipton credited a 2015 law allowing certain quasi-governmental employers in KERS and CERS to be voluntarily or involuntarily removed from the state pension system as the basis for HB 1. That legislation, 2015 HB 62 sponsored by then-State Rep. Brent Yonts, D-Greenville, requires employers to pay their unfunded liabilities to the system by lump sum or installment.

Unlike the 2015 law, HB 1 would not impact CERS and includes some other differences.

House State Government Committee Chair Jerry Miller, R-Louisville, told the House before it voted on the bill that HB 1 "gives options to avoid layoffs, to avoid bankruptcies." He challenged an assertion made by some opponents to HB 1 that the bill violates what is known as the "inviolable contract"— language in state law that many say guarantees public pension benefits earned.

Miller said officials with the Kentucky Retirement Systems did not see HB 62 as a violation of the inviolable contract at the time of that

**Continued on page 69**

# Airfreight,

## from page 1

"I say that to emphasize that investing in infrastructure now ... has a huge impact in the future," McGraw said. "If we didn't have those things, we would not have been able to close this deal."

This is not the first package hub at the airport. McGraw said the airport is also a global super hub for DHL.

"We are their primary location in the Americas," she said, adding that DHL employs 4,200 people and operates 96 daily flights at the airport. It the international shipping conglomerate's second-largest hub, eclipsed only by the company's operations in Leipzig, Germany.

Until construction is completed on the Amazon's hub, the e-commerce company is working out of DHL's hub. DHL sorts its packages at night while Amazon sorts its packages during the day.

The first phase of the Amazon facility is expected to be completed in the third quarter of 2021. Construction will continue through 2030 before the entire 450-acre Amazon hub will be fully operational.

The Cincinnati/Northern Kentucky International Airport has supported more than $21 million in income tax revenues for Kentucky and more than $4 million for Ohio, according to a 2016 study.

A second smaller cargo facility is being built to handle FedEx packages. That shipping company has two aircraft based out of the Northern Kentucky airport.

All the package-handling growth has made the Northern Kentucky airport the eighth-largest cargo facility in North America and fastest-growing in the United States. McGraw said the airport was "on the cusp" of becoming the seventh largest. The airport handled more than 1.2 million tons of cargo last year.

McGraw said this has spurred the aircraft maintenance and engineering company FEAM Aero to build a $19 million, 103,000-square-foot maintenance hangar at the airport. When completed, that facility will employ 100 workers with annual salaries starting at about $65,000.

"We do not operate on local tax dollars," McGraw said. "We are actually a tax generator for the commonwealth."

She said the airport gets its income from, among other things, airplane-landing fees, parking revenue and developing and leasing industrial buildings on its campus.

The airport supported more than $21 million in income tax revenues for Kentucky and more than $4 million for Ohio, according to a 2016 study by The Economic Centers at the University of Cincinnati and Northern Kentucky University. Of the 14,000 people employed on the airport's campus, McGraw said 52 percent are Kentucky residents, 38 percent are Ohio residents and 10 percent are Indiana residents.

Sen. Gerald A. Neal, D-Louisville, asked whether security protocols for working on the airport campus hampered hiring. McGraw said it was challenging to find employees who could pass the required 10-year background check. She said prior drug convictions eliminate a large number of otherwise qualified candidates.

McGraw said the airport was working with Kentucky schools to develop supply chain management curriculums to foster interest in the field and ease the labor shortage in the future.

# Group diagnoses Alzheimer's care in Kentucky

by Jim Hannah
*LRC Public Information*

FRANKFORT – One nursing home resident recounted nearly choking to death on dinner while her roommate desperately searched for someone to help. Another said it wasn't uncommon to hear fellow residents calling out for help. And nearly every resident said there simply weren't enough people in the building.

That's what a long-term care ombudsman said residents of two Kentucky nursing homes told her during recent visits to the facilities. Bluegrass District Long-Term Care Ombudsman Denise Wells reported her finding on Aug. 1 to the Alzheimer's & Dementia Workforce Assessment Task Force.

With the number of Kentuckians living with Alzheimer's or dementia expected to jump 17 percent to 86,000 people by 2025, the task force was formed earlier this year to study whether the state has enough health care workers, services and facilities to meet the growing demand.

In response to questions from task force Co-chair Rep. Deanna Frazier, R-Madison, Wells said Kentucky has no minimum staffing law for long-term care. She said research suggests that residents need 4.1 hours of direct care per day to "avoid negative outcomes."

Frazier, who accompanied Wells on the visit to the two nursing homes, said the findings warranted serious thought by task force members.

Testifying alongside Wells was another nursing home residents' advocate, Kentucky Long-term Care Ombudsman Sherry Culp. She said that Kentucky could enhance the quality of care by advancing policies that encourage people to become direct care workers, or DCWs

**Continued on page 69**

# Tobacco,

## from page 1

"The money's coming back in. We've added $275,000 in repayments. But there's a pretty big demand for that small (loan)," said Hayes.

Three other programs showcased by Beeler today were Kentucky State University's $5,000 agricultural mini-grant program, the non-profit Kentucky Center for Agriculture and Rural Development (KCARD)—supported in part by grants supported through KADF—and a youth program component of CAIP, or the County Agricultural Investment Program, also under KADF.

Beeler said "youth CAIP," as he calls it, streamlines a county's ability to use its share of the state's tobacco settlement money for youth agricultural projects. Projects range from entering a country ham at the state fair to showing livestock, he said.

"So it's working, it's working," said Beeler. "We continue to try and figure out how to make this money new again."

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# Committee Meetings

## Index



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

**Minutes of the Third Meeting of the 2019 Interim**

July 19, 2019

**Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Friday, July 19, 2019, at 2:30 p.m., at the Kenton County Detention Center, 3000 Decker Crane Lane, Covington, Kentucky. Representative Kimberly Poore Moser, Co-Chair, called the meeting to order at 2:35 p.m., 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 Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, Deanna Frazier, Robert Goforth, Scott Lewis, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Nancy Tate, and Lisa Willner.

Guests: Jason Merrick, Director of Addiction Services Kenton County Detention Center; Terry Carl, Jailer, Kenton County Jail; Van Ingram, Executive Director, Office of Drug Control Policy, Justice and Public Safety Cabinet; Carrie B. Oser, Ph.D., University of Kentucky; Alecia Webb-Edgington, President and CEO, Life Learning Center; Matt Brown, Chief of Staff to the CEO, Addiction Recovery Care (ARC); Jim Beiting, Chief Executive Officer, Transitions, Inc.; Michael E. Fletcher, MD, Anesthesiologist; Jennifer Shofner, Transitions, Inc.; Scott Majors, Ms. Keith Poynter, and Dan Martin, Kentucky Board of Physical Therapy; Erin Swift, YMCA; Denise Govan and Tami Wilson, Life Learning Center; Shannon White, Centerstone Kentucky; Amy Martin, Northern Kentucky Office of Drug Control Policy; Chris Crumrine, University of Kentucky; Urooj Nasim, Kentucky Voices for Health; Lynne Saddler, District Director of Health, Northern Kentucky Health Department; Jonathan Borden, Office for Children with Special Health Care Needs; Cassidy Lekan, Transitions, Inc.; Sarah John, Department of Corrections Addiction Services; Ashley McCarty, Kentucky Chamber of Commerce; John Francis, Redwood; Katie Marks, Department for Behavioral Health, Developmental and Intellectual Dias abilities; Michelle Lyndenberg, Interact for Health; Ashley Graham, Department for Public Advocacy; Michele McCarthy and Marla Miller, Center for Behavioral Health; Olivia Spradlin, Kentucky Coalition Against Domestic Violence; Jaclyn McGranahan, American Civil Liberties Union; Rusty Cress, Dinsmore; Jade Flesch, United Way of Greater Cincinnati; Angela Morris, Kentucky Administrative Office of the Courts; Kevin Newton, Legislative Research Commission; Lisa Galloway and Kristan Mowder, Humana CareSource.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Becky Lancaster, Sean Meloney, Dana Simmons, and Gina Rigsby.

**Approval of the Minutes**

A motion to approve the minutes of the June 3, 2019 meeting was made by Senator Alvarado, seconded by Representative Gibbons Prunty, and approved by voice vote.

**Welcome and Overview of the Overdose Prevention and Pre-Arrest Diversion Project**

Jason Merrick, Director of Addiction Services Kenton County Detention Center (KCDC), stated that the KCDC offers a comprehensive biopsychosocial and spiritual treatment program for substance abuse disorders (SUDs). KCDC utilizes medications that are approved by the Federal Drug Administration (FDA) to treatment opioid use disorder (OUD), methamphetamine disorder, cocaine disorder, and other drug disorders. Currently 150 of the 800 inmates are in-house clients that are in treatment. More people need help with OUPs, but there is not enough bed space to provide treatment. As part of the Kentucky Opioid Response Effort (KORE), the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) awarded a grant to KCDC to establish or expand the Quick Response Team (QRT) model in Kentucky. Funds are also received from the federal Department of Justice. Public safety officials often find themselves on the front lines of responding to behavioral health crises but have few resources available to address the needs of people with serious behavioral health conditions. A Quick Response Team provides a way for public safety officials to work with behavioral health providers to serve individuals who have experienced an opioid-related overdose or complication (e.g., blood-borne infection). QRTs can be composed of emergency response personnel, medical personnel, law enforcement officers, substance abuse treatment providers, public health providers, and peer support specialists. The goal of a QRT is to reduce the incidence of overdoses and overdose fatalities by increasing the number of people who receive Opioid Use Disorder (OUD) services, including harm reduction and treatment services. A QRT consists of a retired first responder, social worker, and peer support specialist that offers services to help prevent additional overdoses from occurring. The QRT can leave a Narcan kit and resources with the resident if they are willing to go through training at no cost to the resident. If the person wants to seek help, the QRT can assess and refer that person at the time of the visit. Medication assistance treatment (MAT) for individuals with an OUD is used to stabilize a person while in custody at KCDC, get them covered by health insurance, and then transition them back into the community. A person released into the community receives money to help with living expenses for seven weeks in order to give that person time to find a good job that has a living wage and benefits so they do not have to go back into the same environment where they got into trouble before. The biggest barrier to recovery for men and women is to go back into the same bad environment. The University of Kentucky Center for Drug and Alcohol Research is conducting an in-depth study of KCDC's services and will be available on-line soon.

In response to questions by Representative Goforth, Mr. Merrick stated that through MAT, KCDC offers FDA-approved medications to stabilize someone who is addicted to opioids. The MAT process at KCDC includes screening by clinicians for eligibility, assessment from a medical team, and approval by the medical director. There are equal amounts of clients that will either receive medication, receive Vivitrol or receive buprenorphine. The treatment program at KCDC is only for clients who are at high risk for morbidity associated with OUD.

**Addiction Treatment, Prevention Efforts, and Reentry Pilots in the Commonwealth**

Van Ingram, Executive Director, Office of Drug Control Policy (ODCP), Justice and Public Safety Cabinet, stated that from 2017 to 2018, Kentucky had a 15 percent drop in overdose rates. Kentucky receives federal funds for the Kentucky Opioid Response Effort (KORE) to deal with the opioid epidemic. The ODCP purchases Narcan for law enforcement agencies. Local health departments conduct training and distributes Narcan in communities across Kentucky. The Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) works with Kentucky's hospital system to help pay for Narcan if a person does not have another payer source. Distribution of Narcan and increased accessibility to treatment have been huge contributing factors in reducing overdose deaths.

ODCP has partnered with the Kentucky Injury Prevention and Research Center (KIPRC), a program between the University of Kentucky and the Kentucky Department for Public Health, to establish findhelpnowky.org to help someone find an addiction treatment facility that is accepting new clients. Kentuckians struggling with a substance use disorder, either themselves or within their families, can call 1-833-8KY-HELP (1-833-859-4357) toll-free to speak with a specialist about treatment options and available resources. The specialist will conduct a brief screening assessment in order to connect callers with the most relevant treatment services as quickly as possible. Approximately 50 residential treatment programs accepts Medicaid. Barriers are being removed to help individuals receive treatment as soon as possible instead of having to wait weeks to get into a facility.

SOAR (Supporting Others in Active Recovery), focuses on relapse prevention, education, and reentry skills based on the Therapeutic Community Model, a group-based, residential approach to treating substance abuse. The evidence-based strategy seeks to reduce recidivism and set the stage for long-term recovery before inmates return to communities. Participants live together in a single dormitory to provide a steady continuation of care as inmates complete their sentences along with other programs and curriculum. The program is funded in part by a grant from the Kentucky Office of Drug Control Policy made possible with opioid-response appropriations in the Kentucky state budget. The SOAR program is currently available for up to 88 participants who have completed the DOC-approved substance abuse program or graduated from Moral Reconation Therapy (MRT). Participants must also have 60 days of clear conduct, meet the appropriate risk classifications, and maintain a job assignment in the program. While living in the SOAR dormitory, inmates can engage in other evidence-based programs to earn good time credits. Participants have the opportunity to earn at least 120 days good time credit by completing such programs as MRT Parenting, MRT Anger Management, Soft Skills Boot Camp, and New Directions, which provide valuable skills that help support a successful transition back into the community. Currently there are approximately 6,000 individuals in the SOAR program.

In March 2016, the Kentucky Department of Corrections (DOC) began offering eligible DOC-based substance abuse program (SAP) participants the opportunity to initiate Vivitrol, a long-acting (30-day) injectable medication-assisted treatment (MAT) for opioid use disorder and alcohol use disorder, prior to their release. A coordinator was hired to educate inmates and their families about the Vivitrol® program.

The biggest obstacle for someone to reoffend is not having transportation to get to a residential or outpatient treatment program. The ODCP is working with the Transportation Cabinet and the Kentucky Department for Medicaid Services (DMS) to provide parolees with a SUD that has transportation issues will be able to receive non-emergency transportation through the 1115 waiver. The goal is to remove obstacles \ for parolees to be successful in recovery and not reenter the justice system.

Through the KORE program, five parole officers were trained to become job specialists who work with employers to hire individuals on parole. After a recommendation from the Substance Abuse and Mental Health Services Administration (SAMHSA), Kentucky doubled the number of parole officers being trained to become a job specialist.

The Re-entry Division was created within the Kentucky Justice and Public Safety Cabinet to establish consistent re-entry services for everyone. In 2016, the Kentucky State Police (KSP) started the Angel Initiative as a pro-active approach offering an alternative escape to those battling addiction. Under this initiative, anyone battling addiction can come to any KSP post and get help finding a treatment center. No questions asked. The Justice and Public Safety Cabinet partners with the Kentucky Injury Prevention and Research Center to conduct prescriber training across the Commonwealth with a grant provided by the Center for Disease Control and Prevention (CDC).

Kentucky's Strategic Initiative for Transformational Employment (KYSITE) began in April 2019 and phase one of this program will last until June 30, 2020. This initiative will offer support to the business community by creating workforce driven solutions to help alleviate Kentucky's addiction epidemic and increase workforce participation. The initiative is a partnership between the Kentucky Chamber of Commerce, the Cabinet for Health and Family Services, and the ODCP. The Chamber of Commerce can help facilitate a meeting between the Human Resources Department of a company and a parolee. The Chamber of Commerce, through the business community, matched a $350,000 grant from the ODCP.

With funds from the ODCP and KORE, a recovery job specialist has been hired in all 12 career centers located throughout Kentucky to help connect individuals in recovery from SUDs with a job.

In response to questions by Representative Goforth, Mr. Ingram stated the 1-833-8KYHELP hotline started in January 2018, but he would have to get information on the number of incoming and outgoing calls and how many individuals have received treatment by calling the hotline.

In response to questions by Representative Willner, Mr. Ingram stated that there are approximately 5,900 individuals in prison, a halfway house, or in recovery. Approximately 40,000 individuals are on parole, and a large percentage are involved in an outpatient treatment program.

In response to questions by Representative Tate, Mr. Ingram stated that the largest driver of recidivism is not new crimes but failing a requirement of probation and parole. There are no statistics of recidivism for participants in the programs offered to parolees. A number of programs are being funded for peer support specialists who help individuals after being paroled.

In response to questions by Senator Danny Carroll, Mr. Ingram stated that it is difficult to award grants to faith-based treatment centers because federal funds come with significant restrictions. On November 6, 2019, there will be a faith-based conference to help work through these issues and try to find a way around the restrictions. The same Medicaid transportation providers will be used, and qualifications will be established for receiving transportation to appointments. If an individual is already receiving Medicaid services, it will be the first payer of non-emergency medical transportation if it is to a medical appointment.

In response to a question by Representative Moser, Mr. Merrick stated that 75 percent and 80 percent of KCDC's parolees do not re-enter jail. More than 84 percent of its parolees do not use drugs illicitly when released.

**Syringe Exchange Program (SEP)**

Lynne Saddler, District Director of Health, Northern Kentucky Health Department, stated that harm reduction in regard to SUDs is about trying to prevent death from overdoses and trying to prevent the spread of infectious diseases that occur associated with injection drug use. The syringe exchange programs (SEPs) operate throughout Kentucky. Kentucky has been lauded nationally for how aggressive it has been in getting community support and approvals to be able to operate the SEPs. The CDC says research that has been conducted over the past 30 years shows that the SEPs reduce healthcare cost, prevent disease, and save lives. SEPs in Northern Kentucky are operated at the Grant County Health Center, a mobile units in Covington and Newport. Over 1,800 individuals have been helped and 650 are repeat participants. Almost 2,000 doses of Narcan have been given in Northern Kentucky that saved over 176 lives. Individuals can receive a Hepatitis A vaccination, Hepatitis C testing, and HIV testing are part of the SEP. CDC reports that individuals who are part of the SEP are five times more likely to enter treatment programs for a SUD and three times more likely to stop injecting drugs. The SEPs work.

**University of Kentucky Center on Drug and Alcohol Research Opioid Grant and Helping to End Addiction Long-term (HEAL) Grant**

Carrie B. Oser, Ph.D., University of Kentucky, stated that two years ago, the National Institutes of Health (NIH) launched the HEAL initiative. The HEALing Communities Study (HCS) is a partnership between the NIH, the National Institute on Drug Abuse (NIDA), and the Substance Abuse and Mental Health Services Administration (SAMHSA). The University of Kentucky was awarded $87 million grant for the study. The project is being conducted in partnership with numerous federal, state, community, public health, criminal justice, behavioral health, and health care partners. The primary outcome of the HCS is to reduce opioid related overdose deaths by 40 percent over 3 years within 67 highly affected communities in Kentucky, Massachusetts, New York, and Ohio. Sixteen of the communities are in Kentucky. NIDA and SAMHSA provides oversight to the Healing Communities Study Advisory Board. The Cabinet for Health and Family Services and the Justice and Public Safety Cabinet has partnered with the HCS.

The HCS will test the impact of the Communities that Health (CTH) intervention on opioid related overdose deaths. The CTH is working with 16 local Kentucky Agency for Substance Abuse Policy, KY ASAP (ASAP) boards to develop and produce a comprehensive, data-drive community response plan to deploy evidence-based practices (EBPs) across multiple sectors to reduce opioid-related overdose deaths. There is a requirement that at least one-third of the counties be in rural areas.

Three primary ways to reach the target goal of reducing overdose related deaths are to improve opioid use disorder (OUD) cascade of care, expand overdose prevention, and reduce opioid supply. Kentucky will use health care navigator care teams comprised of a community coordinator who will work with the KY ASAP board, two prevention specialists, care navigator, and jail care navigator.

In response to a question by Representative Bowling, Dr. Oser stated that counties without suppressed data had to have greater than five overdose related deaths per 100,000 residents.

In response to questions by Senator Alvarado, Dr. Oser stated that the study will build upon telehealth services. There is a need to expand and increase the number of physicians who want to treat more clients. There will be educational sessions for physicians interested in helping individuals with opioid use disorder. Senator Alvarado recommended Dr. Oser to contact the Kentucky Board of Medical Licensure and the Kentucky Medical Association to find providers who would be willing to treat these patients.

In response to a question by Representative Bojanowski, Dr. Oser stated that the HCS looks at aggregate level outcome data to look at the overdose rates within the counties. The study can see cost savings will be to help sustainability.

**Importance of Reentry Programs for Addiction Recovery**

Alecia Webb-Edgington, President and CEO, Life Learning Center, stated that the center is a non-profit entity located in Covington. There is an education continuum that is built on five pillars of life: physical, financial, emotional, relational, and spiritual. There is also a care continuum that has wrap-around services that support the education continuum. The center addresses whatever is a barrier that holds an individual back from continuing their journey toward recovery and getting employment. The center does not take any public funding, so the $1.2 million yearly budget is raised from private industry and private individuals. All the individuals that are served can get a job, the challenge is being able to keep the job because they do not have the support wrap-around services or the community support that is needed to continue their recovery.

Once a challenge identified when working with individuals released from KCDC, they are transported to Life Learning Center where a risk assessment is conducted. Form I-9, Employment Eligibility Verification from the Department of Homeland Security, U.S. Citizenship and Immigration Services, is used for verifying the identity and employment authorization of individuals hired for employment in the United States. All U.S. employers must ensure proper completion of Form I-9 for each individual they hire for employment in the United States. The form lists the documents that establish both identity and employment authorization. KRS 186.417(1) states that the Transportation Cabinet shall issue to any felony offender, if the felony offender is eligible, released from the Kentucky Department of Corrections or a Federal Bureau of Prisons facility located in Kentucky on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. An offender who wishes to obtain a personal identification card or operator's license shall provide proper documentation to comply with the provisions of this section. Currently, individuals are worried that the release letter from a facility will no longer satisfy the requirement of KRS 186.417(2)(d). KRS 17.180(3) states that the Commonwealth shall provide and maintain in every detention center the automated fingerprint identification system equipment and programs required by the Department of Kentucky State Police through administrative regulation. If a parolee cannot get an identification card upon release, that individual will face a huge barrier to employment. Another issue that needs to be addressed by the General Assembly are the lack of accreditation for sober living housing facilities.

Matt Brown, Chief of Staff to the CEO, Addiction Recovery Care (ARC), stated that the Office of Drug Control Policy's annual report stated that for the first time since 2013, there was a statewide drop in overdose deaths. Fatal overdose rates dropped nearly 15 percent between 2017 and 2018. The drop has been credited to education, treatment programs, and other harm reduction initiatives. ARC operates a network of residential and outpatient treatment centers at 34 locations located in 12 counties. The full continuum of care at these locations include withdrawal management, crisis stabilization, residential treatment, sober living, outpatient services, and vocational training. Treatment for substance use disorder (SUD) requires a holistic approach that treats the entire person. ARC's program combines the best practices of medical care, clinical services, spirituality, and vocational training.

ARC's medical services are overseen by a board-certified Addictionologist. The clinical program consists of licensed clinicians and peer support specialists utilizing national best practices including Hazelden Betty Ford's COR-12 program. Targeted case managers provide wrap-around services and identifying and walking the client through removing barriers to recovery. Vocational training opportunities allow a client to discover a purpose for their life and the opportunity for meaningful employment.

ARC also has a facility dedicated to SUD treatment for pregnant and postpartum women at Karen's Place Maternity Center at any point during her pregnancy. She can stay at the facility through delivery and up to six months postpartum along with her child. Clients can learn to be mothers while also learning how to become and remain sober. ARC's proprietary "Invitation to Destiny" curriculum is an all-inclusive life skills program designed to dismantle a client's barriers to recovery. The curriculum teaches clients how to be successful in areas of exercise and nutrition, self-esteem, building identity, safe and stable housing, furthering education, vocational training, home economics, financial literacy, parenting, anger management, setting boundaries, overcoming codependency, and spirituality. ARC's innovative "Crisis to Career" approach combines world-class SUD treatment with vocational training to bring an almost unheard of level of success to those that complete the entire 12-month program.

ARC was chosen by the United States Department for Health and Human Services to become one of the first programs in the nation to be a part of the Building Evidence and Employment Strategies (BEES) study. The three-year study will follow clients through the vocational training piece of the program and follow up with them after graduation. Across the country, prison populations are steadily declining, but over the past three years, Kentucky's has risen. During the current fiscal year, Kentucky's Department of Corrections potentially could spend $628 million on its prison population. ARC's Court Concierge Programs allows peer support specialists to be in a courtroom and on call for the judge, jailer, and sheriff's office to assist those that have entered into the criminal justice system to enter treatment at the time of arrest or from jail. In ARC's first pilot program in Letcher County, 82 men and women were able to enter treatment rather than continue in jail saving the county money.

The recently published report by the federal Drug Enforcement Administration (DEA) shows that Kentucky has been hit incredibly hard by the opioid epidemic. No community, workplace, or family has remained untouched by this epidemic. It is imperative that we find a solution to the growing incarceration and recidivism rates. Addressing SUD as a disease instead of a criminal problem will stop recidivism and allow those with a SUD to step out of the cycle of addiction and incarceration. In addition to saving tremendous amounts of money, individual lives in our communities, workplaces, and families can be saved.

Jim Beiting, Chief Executive Officer, Transitions, Inc., stated Transitions is a non-profit that has been in business since 1969. Transitions has offered long-term quality drug and alcohol treatment. Transitions renovated a 180-bed residential facility in Northern Kentucky with immediate access to care. Whether a facility is hospital-based or community-based program like Transitions, up to 60 percent of referrals for treatment come from the criminal justice system. Drug and alcohol addiction and SUD is a legitimate biopsychosocial medical disease. The staff at Transitions is trained to administer Narcan. Sometimes when an individual is incarcerated, Medicaid services are stopped, and it is hard to restart the services after they are released. The 1115 waiver allows more individuals to receive treatment. Authorization for treatment by the managed care organizations (MCOs) can be a barrier to treatment once someone has been released from a detention facility.

In response to questions by Representative Willner, Mr. Beiting stated that Transitions has established a mobile assessment team that goes to detention facilities in Kenton, Boone, and Campbell counties. Assessing an individual once they are released from a facility might be too late to help them receive needed services. Ms. Webb-Edgington stated that Life Learning Center comes to the facility in advance of an individual's release to go through the enrollment process for its program. Life Learning Center is in a pilot program with the Kenton County Commonwealth Attorney's office to allow individuals to come to the center to do their work probation and parole. Once an individual completes the program and gets a job and remain employed, they will divert from the criminal justice system.

Representative Frazier stated that it would be helpful to have a jail concierge.

In response to questions by Representative Tate, Mr. Brown and Mr. Beiting both stated that 85 percent of their programs are funded by Medicaid, and 15 percent is private insurance, private pay, and KORE funding for individuals who do not have Medicaid.

**Medication Assisted Treatment (MAT)**

A.Overview

Michael E. Fletcher, MD, Chief Medical Officer, Addiction Recovery Care (ARC), stated that MAT has been around for 20 years. ARC prescribes medications in conjunction with behavioral health and case management on an outpatient basis. Via telemedicine, patients can be evaluated and started on therapy. Medical therapies for HIV have substantially improved since the early 1990s and the cure rate is high. House Bill 1, AN ACT relating to controlled substances and making an appropriation therefor, from the 2012 Extraordinary Session was a good bill, but there were allot of unintentional negative consequences. Physicians should feel comfortable writing MAT prescriptions.

B.MAT in the Justice System

Jason Merrick, Director of Addiction Services, Kenton County Detention Center, stated that experiencing drug withdrawal is one of the most horrific experience in someone's life. The criminal justice system deals with the most severe cases of SUD. The answer to help treat these men and women with opioid use disorder with medication assisted care immediately upon admittance. The individuals are engaged in their treatment and are grateful for the services received. KCDC has been award funds through KORE the state, and SAMHSA. At two weeks into an individual's buprenorphine treatment, they are given a time released suboxone injection over the course of 30 days then again 30 days later for another shot. KCDC is funded to provide the first three injections while the individual is in custody, and then transition them to community providers. The oral dosage is cheaper than the injectables, because KCDC is not allowed to bill Medicaid. There is a need to look at the barrier for individuals that need medical care but are not covered while in the custody of the criminal justice system. After individuals re-enter society, they need to be supported and there is funding for the after care programs. It costs approximately $23,000 per year per inmate for incarceration. There needs to be services to help stop recidivism. Individuals need a job to give them resources and confidence and help them not reoffend and divert back into substance use.

In response to a question by Senator Alvarado, Mr. Fletcher stated that MAT is not a cure for everyone. Abstinence and forced withdrawal does not work. Mr. Merrick stated that the answer to MAT lies in more increased supervision and education. Eliminating someone's medication should not be used as a punishment.

In response to questions by Representative Bentley, Mr. Merrick stated that mismarketing from Indivior was due to the claim it was safer because it has Naloxone in it. That is not an attack on the reputable active ingredient in Suboxone which is Buprenorphine. Mr. Fletcher stated that he was not familiar with this particular case.

In response to questions by Representative Goforth, Senator Alvarado stated that Suboxone is prescribed more than Vivitrol because it is cheaper and covered by the MCOs. Injectables are higher and more difficult to get prior authorized and covered by insurance. Mr. Merrick stated that Vivitrol does not treat the severe SUD specific to opioids as well as Buprenorphine (Suboxone). Buprenorphine will reduce the desire and keep a person engaged in recovery or treatment for a longer period of time. Vivitrol can treat a mild or moderate SUD successfully for opioids.

**Consideration of Referred Administrative Regulations**

The following administrative regulations were placed on the agenda for consideration: **201 KAR 22:135** – establishes the fees required to apply for a credential by application, reinstatement, or renewal; **902 KAR 20:111** – establishes standards for medically managed intensive inpatient withdrawal management provided by a chemical dependency treatment program or hospital; **902 KAR 50:101** – repeals 902 KAR 50:100 as the sanitation rating methods of Grade A milk producers, processors, and handlers are incorporated by reference in 902 KAR 50:110, which contains Grade A milk and milk products standards; **902 KAR 50:110** – incorporates materials related to permit requirements and sanitary standards for Grade A milk producers, processors, handlers and distributors, Grade A dry and condensed milk, Grade A dry and condensed whey, and the fabrication of single-service containers and closures for milk and milk products; **911 KAR 1:020** – establishes minimum monthly payments for cost of treatment and care, commensurate with ability to pay, procedures for the preparation and transmittal of patient statement of accounts, receipt of payments, clinic participation fess, services provided by contracted providers, authorizations of payment, procedures for failure to provide payments, provisions for discharge, criteria for reapplication, as well as a process for reconsideration of an adverse decision; **911 KAR 1:060** – establishes requirements relating to the Office of Children with Special Health Care Needs Medical Staff; and **911 KAR 1:071** – repeals 911 KAR 1:070 and 911 KAR 1:080. The provisions contained in 911 KAR 1070 are to be updated pursuant to KRS Chapter 13A and contained in separate administrative regulations in this chapter. The provisions of 911 KAR 1:080 refer to a program no longer operated by the Office for Children with Special Health Care Needs.

The Cabinet for Health and Family Services requested deferral of **911 KAR 1:010** – establishes application forms used for clinical programs, procedures for application and reapplication, eligibility criteria, assignment of pay category, and processes used to determine initial and continuing eligibility for services, as well as a process for reconsideration of an adverse decision.

**Adjournment**

There being no further business, the meeting was adjourned at 4:48 p.m.

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

**Minutes of the 2nd Meeting of the 2019 Interim**

July 19, 2019

**Call to Order and Roll Call**

The second meeting of the Interim Joint Committee on Local Government was held on Friday, July 19, 2019, at 3:00 PM, at the Ferguson Community Center of the Boone County Historic Courthouse in Burlington, Kentucky. The Committee met jointly with the Interim Joint Committee on State Government. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Robby Mills, Albert Robinson, and Damon Thayer; Representatives Jeffery Donohue, Larry Elkins, Joe Graviss, Kim King, Adam Koenig, Jerry T. Miller, and Rob Rothenburger.

Guests: Speaker David Osborne, Speaker Pro Tem David Meade, and Majority Floor Leader, Bam Carney, Kentucky House of Representatives; Senator John Schickel, 11th Senate District; Representative Ed Massey, 66th House District; Kristin Baldwin, Northern Kentucky Chamber of Commerce; Boone County Judge/Executive Gary Moore; Campbell County Judge/Executive Steve Pendery; Burlington Fire Protection District Chief Jeff Barlow; Point Pleasant Fire Protection District Assistant Chief Eric Seibel; Doug Bivins, BlueStart US, Hebron, Kentucky; Michael Poynter and Bob Andrew, Kentucky Board of Emergency Medical Services; Chief Gregg Bayer and Chief Cathy Rigney, Kentucky Association of Fire Chiefs; Dan Ison, Shelby County; Ron Wolf, Associated General Contractors of Kentucky; Bryanna Carroll, Kentucky League of Cities; and Gay Dwyer, Kentucky Retail Federation.

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

Ms. Kristin Baldwin, Vice President of Public Affairs and Communications with the Northern Kentucky Chamber of Commerce, welcomed the committees and told members about the events planned for them in conjunction with Northern Kentucky United.

**Welcome and Discussion of Local Issues**

Boone County Judge/Executive Gary Moore also welcomed the committees to Northern Kentucky. He told the members that daytime population has doubled in Boone County. The Visitor's Bureau, TANK, and Sanitation District #1 are collectively working together. If Northern Kentucky is given the tools, it can fend for itself.

Campbell County Judge/Executive Steve Pendery told the committees that Northern Kentucky is working for prosperity. There are 37 cities within three counties of Northern Kentucky. Eighty percent of the jobs within the region are in Boone County.

In conclusion, Judge Moore mentioned the Amazon hub that is going to be built in Boone County.

**Discussion of Consolidation of Local Emergency Services**

Chief Jeff Barlow, with the Burlington Fire Protection District, discussed Fire/EMS/Rescue Governance Reform. The Boone Emergency Services of Tomorrow Comprehensive Study and Recommendations was initiated in October 2017, and released in October 2018. The study included three separate analyses: (1) retaining independence, (2) full consolidation, and (3) semi-consolidation by enhancing cooperative agreements.

Governance reform legislation for fire agencies is needed because tax reforms reduce revenues essential to providing fire/EMS/rescue services; economic growth and development create service demands before revenues are realized; there can be an unequal cost share for services; and decreasing volunteers and labor shortages create operational costs that exceed prior legislative funding models.

The author of the study recognizes that the legislature seeks direct public accountability of service boards; seeks taxpayer protections; November ballot elections for governance; represents taxpayer interests for essential services with timely delivery; and wants to ensure that service boundaries are consistent with ballot precinct boundaries for general elections to be possible. The public needs to have a strong and direct voice in the level of service expectations for their local community. Voters decide the amount taxpayers in that locale are willing to pay for emergency services.

Assistant Chief Eric Seibel, with the Point Pleasant Fire Protection District, discussed current challenges to fire/EMS/rescue. Volunteers, labor pools, revenue authority and sources, and grants/alternative funding is decreasing, disappearing, or limited. Residential/commercial growth and sprawl, run volume, service demands/expectations, personnel costs, CERS contribution rates, and operational costs are increasing. Problems in the 21st century include operating well beyond expectations of original charter and changing the mission and responsibility of the fire district. The 20th century structure is not working anymore. There is a misunderstanding of how KRS Chapter 75 Fire District Board members are elected, a misunderstanding of board members' authority and responsibility, and there is limited revenue authority.

The anticipated benefits of consolidation include combining administrative functions and eliminating redundant administrative efforts, creating a diverse specialized-skill career path for personnel that is currently unsustainable; recruiting and retaining improvements by growing workforce strengths; strengthening mid-level officers and management; expanding and strengthening specialized divisions and services; reducing and eliminating redundant capital; and increasing purchasing power.

Chief Barlow told the committee that fire districts are asking for the creation of a new entity, whereby the existing Chapter 75 Fire Districts or other organizations can opt to remain independent entities as they currently exist and municipalities and counties can opt to continue to provide their own services. There should be clear accountability of the governing board—majority elected on general November ballot, and there should be diversified revenue and taxing authority. Legislation for the new entity needs to: (1) protect existing retirement structures; inclusion provides no greater, and no less, retirement system benefit status for employees; (2) protect existing health plan coverages already in place to allow continuation of existing health insurance coverage; no state health insurance mandate; and (3) provide that taxation beyond any established caps be required to present to voters for a direct ballot decision. Accountability stemming from the legislation would be through requiring: (1) existing elected boards passing a majority decision to opt-in to a consolidated emergency service district; (2) voters directly elect majority of the board governing a consolidated emergency service district; and (3) voters directly voting to approve or deny any taxation beyond existing limits.

Mr. Doug Bivins, Chief Operating Officer for BlueStar US, gave the committees background on BlueStar, which is located in Hebron, Kentucky. BlueStar is one of the largest and fastest growing solutions-based distributors in the world. Point Pleasant Fire Protection District cooperated with Mr. Bivins in explaining their fiscal obligations and were good stewards of the district's tax funds.

Senator Thayer said he was interested in seeing details of the fire districts' proposal. There should be accountability and transparency from the boards. It is an inefficient way to fund the fire districts. He likes the idea of consolidation and direct November elections but does not want new bureaucracies to be created.

Representative Miller stated that he agreed with Senator Thayer and applauds the fire districts' idea of consolidation. In response to a question from Representative Miller, Chief Barlow replied that not all fire districts charge the 20 cents maximum for fire service. Most fire districts charge 17 to 20 cents with the smallest being 12.2 cents.

In response to another question from Representative Miller, Chief Siebel said the Boone County response time is 12 to 15 minutes. The response time should be within five minutes.

**Discussion of Fire Department Hiring of Candidates having EMT and Paramedic Certification**

Mr. Michael Poynter, Executive Director of the Kentucky Board of Emergency Medical Services (KBEMS), gave the committees the following statistics: there are 13,379 certified or licensed providers; 220 licensed EMS agencies; 1,147 ground ambulances; 72 helicopter ambulances; five fixed wing ambulances; 885,307 EMS incidents in 2018 (2,426 per day); one out of every five citizens are in contact with EMS annually; and patients 50 years and older account for 68 percent of all EMS incidents.

There are four disciplines of training: (1) Emergency Medical Responder (EMR) which requires 50 hours of training and provides basic immediate lifesaving interventions; (2) Emergency Medical Technician (EMT) which requires 150 hours of training and provides basic stabilization and safe transportation of patients; (3) Advanced Emergency Medical Technician (AEMT) requires 400 hours of training and provides basic and advanced stabilization and safe transportation of patients; and (4) Paramedic which requires 2,000 hours of training and provides advanced care for critical and emergent patients.

Since 2011, there has been a certification and licensure pass rate improvements of 14 percent for EMTs and has improved 28 percent for paramedics.

There are five agency organization types: hospital, governmental/non-fire, community/non-profit, fire department, and private/non-hospital. The number of providers has increased but they are having challenges in staffing them. Splitting in certification training levels, EMR and EMT providers have decreased lately, while AEMT and EMTP providers have increased.

The concerns of KBEMS include: staffing; growing industry; expanding roles, which include critical care, flight paramedic, community, wilderness, tactical and emergency paramedics; furthering education; and salaries. Responses to the concerns include researching alternative training delivery methods, which include accelerated training, distance learning, and scheduling around work; increasing marketing and public relations; Education Committee Accreditation Workgroup identifying best practices; regulator revisions to address issues brought to the Board by stakeholders; and leadership.

Chief Gregg Bayer, President of the Kentucky Association of Fire Chiefs (KAFC), told the committee that fire chiefs are dedicated to ease the burden on EMS, in particular regarding recruitment, retention and also training. Training time is an issue. The KAFC is looking at on-line learning and workforce development programs. He referred members to written remarks from Chief Wayne Briscoe of the City of Frankfort, which were included in the committee members' folders.

Chief Cathy Rigney, with the Winchester Fire Department and KAFC, stated that she agreed with Chief Bayer. The KAFC would like different options on the front end to get boots on the ground.

Regarding higher education requirements, Representative Meredith commented that he feels a precedent is being set that is cost prohibitive and would like to steer away from the requirement of higher education. In years past, Kentucky did not require national registry recognition. He wanted the KBEMS' thoughts about the national test.

Mr. Bob Andrew, Director of Education with the KBEMS, told Representative Meredith that the Kentucky Revised Statutes establishes standards. He discussed the history of the various elements in the scope of practice and the use of the National Registry Exam and the rationale behind its use.

Representative Meredith commented that Kentucky needs to focus on practicing in the field instead of taking a test.

Representative Rothenburger commented that his biggest concern is EMT training classes do not seem to be offered anymore in the rural areas. The Kentucky Fire Commission was looking at making money available for EMT training.

Mr. Michael Kurtsinger, with the Kentucky Fire Commission, told Representative Rothenburger that there is money in the budget for EMT training but could not commit at this time.

Chief Bayer commented that it has become more burdensome to provide training programs. There needs to be more training but it is so cost prohibitive right now.

In response to a question from Representative Tipton, Mr. Poynter stated that ten high schools offer EMT training. Mr. Andrew added that 13 high schools offer paramedic training programs. The KBEMS is trying to get more. Satellite programs are available and held offsite.

Senator Schroder announced that the next meetings of the two committees would be held on August 22nd at the Kentucky State Fair.

There being no further business, the meeting was adjourned at 4:30 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

**Minutes of the 2nd Meeting of the 2019 Interim**

July 9, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, July 9, 2019, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Tom Buford, Matt Castlen, Rick Girdler, Stan Humphries, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, Gerald A. Neal, Dennis Parrett, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Lynn Bechler, Danny Bentley, Myron Dossett, Joseph M. Fischer, Kelly Flood, Jim Glenn, David Hale, Mark Hart, Angie Hatton, Dennis Keene, Russ A. Meyer, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Brandon Reed, Steve Riley, John Sims Jr, Wilson Stone, James Tipton, and Susan Westrom.

Guests: Robin Kinney, Associate Commissioner, Office of Finance and Operations, Department of Education; Chay Ritter, Branch Manager, Funding and Reporting Branch, Division of District Support, Office of Finance and Operations, Department of Education; David Eager, Executive Director, Kentucky Retirement Systems; and Perry Nutt, Staff Economist, Legislative Research Commission.

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

**Approval of Minutes**

A motion was made by Representative Reed, seconded by Representative Gibbons Prunty, to approve the minutes of the June 4, 2019 meeting. The minutes were approved by voice vote.

**Education Funding**

Robin Kinney, Associate Commissioner, Office of Finance and Operations, Department of Education, and Chay Ritter, Branch Manager, Funding and Reporting Branch, Division of District Support, Office of Finance and Operations, Department of Education, discussed the Support Education Excellence in Kentucky (SEEK) formula.

Robin Kinney testified that, in 1985, 66 poor property districts formed together to challenge the overall educational system in Kentucky. As a result, the system was declared unconstitutional pursuant to Section 183 of the Kentucky Constitution. The decision resulted in the Kentucky General Assembly enacting the Kentucky Education Reform Act (KERA) in 1990, which included the SEEK funding mechanism. The SEEK funding formula has not changed much in 30 years. KRS 157.350 sets forth Seek eligibility requirements.

SEEK is an allocation formula used to disperse funds to school districts. Once a district receives the funds, the funds can be utilized by the district to make it as efficient and effective as possible.

Mr. Ritter testified that the first input into the SEEK formula is the Aggregate Average Daily Attendance (AADA); which each district reports to KDE. The statewide AADA is about 593,000. Other inputs into the formula include funding for free lunch for at-risk children, funding for children with disabilities, home hospital (H/H) for students unable to physically attend school, and funding for students with limited English proficiency (LEP). Mr. Ritter stated that $214 million has been appropriated for pupil transportation through SEEK in each of the last several budgets. The most recent calculation for districts' transportation costs totaled about $376 million.

Districts that have increased local revenue to a level known as 'tier one' may receive additional funding through the budget. About $160 to $170 million each year is given to tier one districts. Local revenue and effort are a big part of SEEK. Districts are required to levy a minimum equivalent tax rate of 30 cents per $100 of assessed property. All of the school districts combined generate about two-and-a-half billion dollars in tax revenues.

Mr. Ritter stated that 'nickels' are nickel-equivalent taxes that help districts dedicate funds to facilities renovation and new construction. Each district is required to have the Facilities Support Program of Kentucky (FSPK). The equalization formula for nickels is formula driven and impacted by local property assessment and statewide equalization level.

In response to a question from Senator McDaniel, Mr. Ritter stated that 'local effort' is determined based on assessed value. In response to another question, Ms. Kinney confirmed that, if a local county has a poor collection percentage, that factor will be one of the biggest determinants in large fluctuations of funding for the county's schools.

In response to a question from Representative Stone, Mr. Ritter and Ms. Kinney stated that the 2019-2020 budget was the first budget that included language stating that unexpended SEEK funds would be allocated for pupil transportation. In response to another question, Mr. Ritter and Ms. Kinney confirmed that the General Assembly would need to include that language in the next budget for unexpended SEEK funds to continue be allocated for pupil transportation. Representative Stone expressed his hope that the legislature would find a way to help with transportation costs.

In response to a question from Senator Kerr, Ms. Kinney stated that Jefferson County has over 100 languages spoken in its schools. In response to another question from Senator Kerr, Ms. Kinney stated that she would provide Senator Kerr with a list of the category five schools.

In response to a question from Representative Sims, Mr. Ritter and Ms. Kinney testified that the SEEK per pupil rate has been at $4,000 only during the current biennium. In response to another question from Representative Sims, Ms. Kinney stated that school districts are using federal funds for various expenditures within the educational system. In response to another question, she said that different school districts have different financial needs based upon the population, enrollment, and debt of the district. In response to a final question from Representative Sims, Mr. Ritter stated that the SEEK formula accounts for property wealth within districts. A school district with high property wealth receives less from the state because of the 'local effort.' A district with low property wealth and local effort will receive more state assistance.

In response to a question from Representative Dossett, Mr. Ritter stated that there is no guarantee that the state will match the recallable nickel if it is passed by a district. Rather, it depends upon the language in each biennium budget bill.

In response to a question from Senator McDaniel, Ms. Kinney stated that each county must have a school district, but that she was not aware of guidelines regarding how many schools must be in a district. In response to another question from Senator McDaniel, Mr. Ritter testified that KDE has field staff who visit districts throughout the year. KDE has an audit process to check a district's attendance records and other records.

In response to a question from Senator Neal, Ms. Kinney stated that the SEEK formula does not include a process by which to determine whether a viable level of student service delivery is being maintained in the state.

In response to a question from Representative Rudy, Mr. Ritter testified that less than 10 school districts are levying an occupational tax. The district occupational tax is levied on taxpayers who live and work in the district.

**Kentucky Retirement Systems**

David Eager, Executive Director, Kentucky Retirement Systems (KRS), discussed actuarial assumptions for KRS.

Mr. Eager testified that the actuary's job is to come up with the appropriate amount of money that the state, cities, and counties should contribute to fund retirements. Actuaries know the age of each systems' members, how much money each member earns, how much service each member has, the gender of each member, and each member's occupation. Actuaries do not know how much money that investments will earn, how long members are going to live, when members are going to retire, how long members will stay in a job, or if members will become disabled.

An experience study of KRS is statutorily required every five years. The experience study for the five-year period ending June 30, 2018, was conducted by the actuary, Gabriel, Roeder, Smith & Company (GRS). The KRS Board agreed with and approved the actuarial assumptions recommended by GRS as a result of the study. The assumptions will determine contribution rates for the Kentucky Employees Retirement System (KERS) plan and the State Police Retirement System (SPRS) plan for Fiscal Years 2021 and 2022. The new rates will go into effect June 1, 2020. The assumptions will also determine contribution rates for the County Employees Retirement System (CERS) for Fiscal Year 2021.

Mr. Eager stated that KRS went many years relying on assumptions that were outdated. When KRS adjusted the interest assumptions in 2017, that action drove the contribution rate from 49 percent to 83 percent. It had to be done because the system was underfunded and underestimated for a long time.

Mr. Eager highlighted changes to the assumptions made by KRS. KRS added two years to the assumed life expectancy of members. Turnover varies between systems, with KERS non-hazardous having higher turnover, and CERS non-hazardous having lower turnover. KRS also made investment earning assumptions 1.25 to 1.50 percent lower than previously assumed, depending on the system.

KRS is projecting what the life expectancy will be for members who will be retiring for the next 40 years, and that there will be a higher cost associated with it. Previous experience studies used the national mortality tables, but that KRS will now determine mortality based on its own membership. People in the KRS live longer than the national average. Starting in 2020, the life expectancy assumption for males age 65 will increase from 19 years to 21. The assumption for females age 65 will increase from 22 years to almost 24. The state will have to pay more money in benefits because people are staying in the system longer.

Due to the new assumptions, employer contribution rates and requirements are recommended to rise. The recommended contribution rate for KERS non-hazardous will rise four percent, resulting in $59 million more needed to fund that system. The contribution requirement for KERS hazardous will increase by four million dollars. The rate will increase by 3 and a half percent for CERS non-hazardous, requiring $86 million more. The CERS hazardous contribution rate is recommended to increase from 46.5 percent to 57.6 percent. The contribution rate for SPRS is recommended to increase 13 percent. The new recommendations modestly lower the funded status of each retirement system.

In response to a question from Senator McDaniel, Mr. Eager stated that life expectancy is ascending. The KRS board deferred to the actuary's forecast as it relates to life expectancy. KRS needs to ask for funding that matches the level 'prescribed' by the actuary. In response to another question from Senator McDaniel, Mr. Eager testified that he did not know if the Kentucky Teachers' Retirement System (KTRS) was still using stock assumptions.

In response to a question from Representative Hatton, Mr. Eager said that from KRS' standpoint, it would be irresponsible to fund the system less than the actuary recommends. The solution to city funding problems is not to cut pensions. A big adjustment in the assumptions made was necessary because small adjustments had not been made over time.

In response to a question from Senator Wheeler, Mr. Eager testified that there is very little liability associated with the tier three cash-hybrid plan, because it has been in place for five years. If the state continues to fund at the full Actuarially Required Contribution (ARC), the contribution rate for a new person coming into KRS will be 3.05 percent in 2043. Tier three will have a positive impact.

In response to a question from Representative Tipton, Mr. Eager stated that the funded ratio for CERS non-hazardous was higher 10 years ago. In response to another question from Representative Tipton, Mr. Eager said that incorrect assumptions in the past were a big contributor to the funded ratio of CERS consistently decreasing over time, even when employers were paying 100 percent of the recommended contribution rate. KRS was in a negative cash flow for 15 years. In response to another question, Mr. Eager testified that KRS non-hazardous payroll growth will be -10 percent this year. Representative Tipton stated that at some point there will be an economic downturn that puts stressors on investment returns; continuing to say that it is important to have accurate assumption rates. Mr. Eager stated that KRS needs to amend the system to rely less on contributions based on payroll growth.

In response to a question from Senator Buford, Mr. Eager said that last year, KRS was 'shorted' $132 million because quasi-governmental agencies were allowed to pay a 49 percent contribution rate, and the state did not appropriate the difference. It will cost KRS $121 million next year. In response to another question from Senator Buford, Mr. Eager testified that he knows of three bills being considered related to quasi agencies, with the net-present cost of them totaling $800 million. Senator Buford stated that if the legislature allows quasi agencies to have the lesser contribution rate, it could result in $1.5 billion to the negative side of the bottom line over 20 years.

In response to a question from Senator McDaniel, Mr. Eager stated that after September 1, it will be much more expensive to buy time. In response to a follow-up from Senator McDaniel, Mr. Eager said that a person conventionally retiring will not see a change in benefits due to changes in actuarial assumptions. It may affect reduced benefits for early retirement.

In response to a question from Representative Nemes, Mr. Eager said that the difference between the contribution rate quasi agencies pay, and what the agencies would pay at the full rate, will be $121 million next year. Representative Nemes questioned why the actuarial analysis on the proposed quasi agency pension bill did not take into account what taxpayers would have to pay if the legislature did nothing. Mr. Eager stated that the actuarial analysis provided information for the costs of the five options for quasi agencies within the proposed bill.

In response to a question from Senator West, Mr. Eager testified that the funded ratio for KERS non-hazardous is 12.9 percent, and that it is likely decrease. In response to another question, he stated that KERS has positive cash flow for the first time in 15 years. If things do not change, the asset and liability levels will grow.

In response to a question from Representative Meyers, Mr. Eager testified that he did not know whether the administration has discussed ways to create new revenue or increase revenue.

**Tobacco Settlement Funds**

Perry Nutt, Staff Economist, Legislative Research Commission, discussed tobacco settlement funds.

Mr. Nutt testified that Kentucky signed the Master Settlement Agreement (MSA) in 1998. Under the terms of the contract, Kentucky receives a payment each April from cigarette manufacturers that have signed the MSA. On average, over the past 20 years, Kentucky has received about $111 million each year under the MSA.

In the 2000 Regular Session, House Bill 583 created the Tobacco Settlement Agreement Fund (TSAF), which divided all MSA payments into three funds. The Agricultural Development Fund (ADF) receives 50 percent of the moneys, the Early Childhood Development Fund (ECDF) receives 25 percent, and the Health Care Improvement Fund (HCIF) receives 25 percent. In the same year, House Bill 611 created the ADF and specified that MSA money distributed to the ADF would be divided into two accounts; with 65 percent of funds going to the state account, and 35 percent going to the county account. In the 2000 Regular Session, House Bill 706 created the ECDF. In the same session, House Bill 517 created the HCIF and specified that MSA money distributed to the fund was to be allocated to three areas; 70 percent of funds are to go to the Kentucky Access Insurance Program, 20 percent of funds are to go to the Lung Cancer Research Program, and 10 percent of funds are to go to substance abuse treatment for minors.

Mr. Nutt testified that tobacco dollars do not lapse to the general fund at the end of the fiscal year, rather they can carry forward. Tobacco dollars are tracked separately from other general fund dollars.

From 2000 to 2014, MSA appropriations closely followed the statutory distribution formula. Starting in Fiscal Year 2015, the approach was changed. For tobacco appropriations, the debt service is first taken off the top, with distributions then being made to the three funds.

Mr. Nutt stated that the current budget predicts $118.1 million in MSA receipts for Fiscal Year 2020. Mr. Nutt reviewed the various areas receiving general fund tobacco appropriations for Fiscal Year 2020. For Fiscal Year 2020, the ADF will receive $42,636,600 in appropriations, with the ECDF receiving $27,930,800, and the HCIF receiving $17,391,400.

In response to a question from Senator Buford, Mr. Nutt stated that there have been a few years in which there was a deficit in the general fund receipts, while also a surplus in the tobacco receipts. The unanticipated tobacco receipts have sometimes lapsed back into the general fund to help in a deficit situation. In response to a statement from Senator Buford, Mr. Nutt stated that while there may have been money taken out of Kentucky Access in the past, it was not general fund tobacco money.

Representative Stone stated that the MSA was the result of a settlement between tobacco companies and state attorney generals, with approximately 40 states agreeing to the settlement. States receive funds from the agreement based on the amount of tobacco sales in the state. Kentucky has spent the funds it receives from the MSA well. The MSA has had many positive effects.

Senator Webb stated that Kentucky is an international model as it relates to the handling of MSA funds.

**Correspondence Received**

Senator McDaniel reviewed the correspondence received from Jenny Bannister, Deputy Director, Office of Budget Review (LRC).

**List of Reports Received Since June, 2019**

Senator McDaniel reviewed the list of reports received by the committee since June, 2019.

**Adjournment**

With no further business before the committee, the meeting was adjourned at 2:28 p.m.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

**Minutes of the 1st Meeting of the 2019 Interim**

July 8, 2019

**Call to Order and Roll Call**

The 1st meeting of the Interim Joint Committee on Agriculture was held on Monday, July 8, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Richard Heath, Co-Chair; Senators Stan Humphries, Robby Mills, Dennis Parrett, Robin L. Webb, Stephen West, and Whitney Westerfield; Representatives Myron Dossett, Larry Elkins, Kelly Flood, Joe Graviss, Chris Harris, Mark Hart, Kim King, Matthew Koch, Brandon Reed, Rob Rothenburger, Steven Rudy, Dean Schamore, John Sims Jr, Wilson Stone, Nancy Tate, Walker Thomas, James Tipton, and Les Yates.

Guests: Amanda Robertson, Beginning Farmer Regional Coordinator, USDA -Farm Service Agency; Tamara Sandberg, Executive Director, Feeding Kentucky and Michael Halligan, CEO, God's Pantry Food Bank.

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

**Beginning Farmer Program**

Ms. Amanda Robertson, Beginning Farmer Regional Coordinator, Farm Service Agency, said the United States Department of Agriculture (USDA) was reorganized. The Beginning Farmer Program operates under Farm Production and Conservation Division and includes the Farm Service Agency, Natural Resource Conservation Service, Risk Management Agency, and a new program known as the Business Center.

Ms. Robertson said that qualifications for a beginning farmer participant is solely based on the years that an individual operated a farm. It includes veterans, women, and minorities. A beginning farmer is an individual who has not operated a farm for more than ten years. An individual seeking farm ownership must not have operated a farm for more than ten years and does not own real estate that exceeds thirty percent of the average acreage in the county where the property is located. She stated the USDA supports veterans by focusing on employment, education and entrepreneurship. The USDA is committed to supporting diversity and inclusion in agriculture. Approximately one million women work the land in the United States. According to a 2017 census from 2012 to 2017, Kentucky's number of female farmers increased by 37 percent. Youth programs are available including a youth loan program. Youth from the ages of 10 through 20 can receive up to $5,000 if they are enrolled in Future Farmers of America (FFA) and 4-H.

Ms. Robertson explained that the Farm Service Agency (FSA) benefits farmers and beginning farmers with farm loan programs, storage facilities programs, disaster programs, cost share programs and crop insurance. Beginning farmers identified as socially disadvantaged, limited resources, veteran farmers, female, or minority can qualify for waivers of administration fees.

Ms. Robertson explained that the USDA has direct operating loans with a loan limit of $400,000; microloans with a $50,000 loan limit, and direct farm ownership loans with a $600,000 loan limit. Other farm loan programs include guaranteed loans, youth loans, and loans targeting minority and women farmers. Beginning farmers are encouraged to visit the Natural Resources Conservation Services (NRCS) to help create a Conservation Plan and to visit the Risk Management Agency (RMA) for crop insurance. She said the National Agricultural Statistics Service (NASS) provides timely, accurate and useful statistics to United States agriculture through reports and surveys. In 2017, there were 674,940 beginning farmers, an increase of 20 percent from 2016. Another program within USDA is Rural Development. The Rural Development program helps to improve the economy and quality of life in rural America by focusing on purchasing or building homes in rural areas. The Agricultural Marketing Service (AMS) helps to create marketing opportunities: farmers market promotion, local food promotion and cost-share programs for organic certification. The USDA is also committed to supporting the Farm to School Program. With agriculture changing, USDA saw a need for developing an Urban Agriculture Toolkit to help establish neighborhood gardens, hydroponic and aquaculture operations, rooftop gardening, and seasonal high tunnel programs. Ms. Robertson said there are 64 county offices with 16 farm loan teams.

In response to Representative Tipton, Ms. Robertson stated that beginning farmers can come from a background of no farming or was raised on a farm and want to re-enter farming on a small scale. She said there is still a program which helps to connect beginning farmers to retiring farmers.

In response to Representative Thomas, Ms. Robertson stated that growing crops in container crates and remodeling older buildings to produce hydroponic vegetables is becoming more common.

In response to Senator Humphries, Ms. Robertson said that FSA officials visit with military veterans. Individuals stationed at Fort Campbell have a significant interest in agriculture and those stationed at Fort Knox make up a smaller group. The Kentucky Department of Agriculture also has programs for veterans and they reach out to work with interested individuals too.

**Update on Feeding Kentucky Programs**

Tamara Sandberg, Executive Director, Feeding Kentucky and Michael Halligan, CEO, God's Pantry Food Bank, spoke on the fight against hunger.

Mr. Halligan stated that medical expenses, job loss, or other unexpected events can contribute to persons being chronically hungry or hungry for a short period of time. There are approximately 600,000 people at risk of hunger in the state. Nearly 200,000 or roughly 18 percent of children are hungry. Magoffin, Clay, Elliot, Robertson and Breathitt counties have the highest child food insecurity rates. Magoffin County has the highest rate with 31 percent of hungry children year-round. Another group of people to be concerned about are those who near retirement age. Kentucky adults between the ages of 50 to 59, have the worst food insecurity rate in the nation at 18.6 percent.

Feeding Kentucky has seven food banks that cover the entire Commonwealth. Feeding Kentucky partners with food pantries, soup kitchens, and shelters to provide resources for access to food. Over 50,000 people a week are served meals which equates to 64 million meals a year. The Farms to Food Banks program represents ten percent of the produce volume. In 2018, God's Pantry Food Bank's distribution of produce was 13.6 million pounds.

Ms. Sandberg stated the Farms to Food Banks program initially focused on fresh produce but now includes any agricultural product. The primary goals are to feed and provide nutritional meals to hungry Kentuckians, support farmers by increasing their cash flow, and reducing waste. She said that in 2018, the Farms to Food Banks program was able to access approximately three million pounds of produce which provided over five million supplemental meals. For the first time in several years, the Farms to Food Banks program was unable to distribute in all 120 counties. The program experienced a budget reduction by $100,000 due to lack of funding by the General Assembly. Ms. Sandberg stated that 350 farmers, from 64 counties, participated in the program last year with an average payment of $1,500 per farmer. A processing pilot program will begin this year in hopes of extending the fresh produce season. Farms to Food Banks will partner with the University of Kentucky at nine food pantry sites throughout the state to teach meal preparation. She said that the Kentucky Kids Eat program targets child hunger by connecting kids to healthy food 365 days a year. Another program is the Kentucky Fruit and Vegetable Incentive Program which creates a financial incentive for summer food service sponsors to include Kentucky-grown fruits and vegetables in the summer meals they serve.

In response to Representative Rothenburger, Ms. Sandberg stated that Feeding Kentucky does not get funding from the Kentucky Department of Public Health, although it is a member of the Kentucky Kids Eat Coalition, which supports the efforts to feed the hungry. Mr. Halligan said that God's Pantry Food Bank and the agencies supported are under the same guidelines as any other food distribution entity.

Representative Schamore suggested that the Kentucky Cattlemen's Association consider donating a culled cow for processing and distribution through God's Pantry and Feeding Kentucky. Ms. Sandberg said that Feeding Kentucky has funding from Agriculture Workforce Development Association to help pay for the processing fee.

In response to Senator West, Ms. Sandberg said there are different reasons for the disconnect between the Supplemental Nutrition Assistance Program (SNAP) and hunger. The SNAP program has helped to keep Americans from starving on the street, but there are hungry people in Kentucky who do not qualify for federal programs. Mr. Halligan explained that the SNAP program is enormous. SNAP provides 12 meals for every meal at a Food Bank. The SNAP program is one of the least fraudulent programs in the country.

In response to Representative Harris, Mr. Halligan said that one of the biggest challenges in the summer for kids is how to replace meals that they lose when they are on free and reduced price lunch during the school year. The federal statutes require congregate feeding which means that a child needs to go to a site for supervision during the meal. In rural counties like Pike County, it does not work well. Federal legislation is being considered to be able to use an EBT card to purchase food for children in the summer.

In response to Representative Tipton, Ms. Sandberg stated that Hunters for the Hungry is a great program. The Kentucky Beef Council supports hunger relief by selling t-shirts as a fundraiser and the proceeds help Feeding Kentucky to purchase beef from Kentucky farmers. Funding is a key issue for purchasing or donating a product. A grant from the Kentucky Department's Hunger Initiative, founded by Farm Credit Mid-America, enabled the purchase of 200 freezers for food pantries, but more cold storage capacity is needed.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Human Resources

**Minutes of the 2nd Meeting of the 2019 Interim**

July 9, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Budget Review

Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, July 9, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Matt Castlen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Matt Castlen, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Christian McDaniel, Morgan McGarvey, and Stephen Meredith; Representatives Melinda Gibbons Prunty and Susan Westrom.

Guests: Stephanie Bates, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS); Ann Hollen, Senior Behavioral Health Policy Advisor, Department for Medicaid Services, CHFS; Allen J. Brenzel, M.D., M.B.A., Medical Director, Department for Behavioral Health, Developmental and Intellectual Disabilities (BHDID), CHFS; Stephanie Craycraft, Deputy Commissioner, BHDID, CHFS; and Katherine Marks, Ph.D., Kentucky Opioid Response Effort (KORE) Project Director, BHDID, CHFS.

LRC Staff: Miriam Fordham, Kevin Newton, and Jay Jacobs.

**Funding for Substance Use Disorder Treatment and Prevention Services**

**Department for Medicaid Services**

Deputy Commissioner Bates and Ms. Hollen, discussed the Section 1115 Substance Use Disorder Demonstration being implemented by the Department for Medicaid Services (DMS).

In response to questions by Senator Meredith, Ms. Hollen stated that methadone is now covered as a key component of treatment of Opioid Use Disorder (OUD), and there is coverage across the Commonwealth with 191 residential treatment providers. Deputy Commissioner Bates stated that all five of the Medicaid Managed Care Organizations (MCOs) do serve the foster care population which also includes adoption subsidy children.

Deputy Commissioner Bates stated that the foster care population is not vulnerable if one of the MCOs drops out, CHFS would fall back on the other MCOs and the details for handling that situation are written in the MCO contracts which are posted to the Finance Cabinet's website.

In response to questions by Representative Bentley, Ms. Hollen stated that withdrawal management was covered prior to July 1, 2019, and has been expanded in the DMS implementation plan to cover all four levels of withdrawal management.

**Approval of Minutes**

Senator Meredith moved that the minutes from the June 4, 2019, meeting be approved, the motion was seconded by Representative Bentley and all were in favor.

**Department for Behavioral Health, Developmental and Intellectual Disabilities**

Dr. Brenzel and Deputy Commissioner Craycraft gave an overview of the department and funding for substance abuse disorders.

In response to questions by Representative Westrom, Dr. Brenzel stated that there have been around 150 contracts granted to the community from federal funds to help treat substance abuse disorders. There are some specific expectations on data collection and the responsibility for those community programs to collect that data with the goal of service provision is written into the contracts. The administrative regulations are under revision regarding the qualifications for staff working at the treatment facilities which varies by facility and which program licensure is being utilized. Dr. Marks stated that all KORE funded programs are Alcohol and Other Drug Treatment/Behavioral Health Service Organization (AODE/BHSO) licensed facilities. Dr. Brenzel stated that the Cabinet's goal is treatment on demand, and the Cabinet is close to meeting that goal as long as it continues to increase awareness of what services are available. There has been a dramatic expansion in the number of providers, the size of those providers, and the number of individuals that can be treated.

In response to questions by Senator Meredith, Deputy Commissioner Craycraft stated that the $20 million SAPT block grant requires the Cabinet to maintain a certain level of general fund in order to retain those funds. CHFS will be requesting an appropriation increase of around $30 million to be able to use the federal funds it will be receiving.

In response to questions by Representative Prunty, Dr. Brenzel stated that the hospitals are now required by the Joint Commission to track each provider, how much opiates each provider prescribes, and then try to identify which provider is an outlier. The Kentucky Hospital Association's (KHA) statewide initiative has an advisory board that is working with all the hospitals, and the advisory board's job will be to train and monitor across those health care organizations. KHA is working with residents and funding training for the recognition of opiate use disorder and the risk factors to the University of Pikeville, University of Louisville, and the University of Kentucky medical centers and trying to influence as many individuals in medical schools to have the training introduced into the curriculum. Dr. Brenzel stated that most of the housing that the commonwealth funds are provided by agencies as part of the continuum. Dr. Marks stated that there is a section of recovery housing that is not operated by any of the treatment or recovery community. This housing consists of standalone houses, and there is no oversight at the current time. Dr. Brenzel stated that since many of the services are paid for by MCOs, those organizations have to justify on a day to day basis the necessity of that service.

There being no further business before the subcommittee, the meeting was adjourned at 11:03 PM.

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

**Minutes of the 1st Meeting of the 2019 Interim**

July 19, 2019

**Call to Order and Roll Call**

The first meeting of the Interim Joint Committee on State Government was held on Friday, July 19, 2019, at 3:00 PM, at the Ferguson Community Center of the Boone County Historic Courthouse in Burlington, Kentucky. The Committee met jointly with the Interim Joint Committee on Local Government. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Robby Mills, Albert Robinson, and Damon Thayer; Representatives McKenzie Cantrell, Jeffery Donohue, Larry Elkins, Joseph M. Fischer, Joe Graviss, Richard Heath, Reginald Meeks, Patti Minter, Jason Nemes, Attica Scott, James Tipton, and Les Yates.

Guests: Speaker David Osborne, Speaker Pro Tem David Meade, and Majority Floor Leader, Bam Carney, Kentucky House of Representatives; Senator John Schickel, 11th Senate District; Representative Ed Massey, 66th House District; Kristin Baldwin, Northern Kentucky Chamber of Commerce; Boone County Judge/Executive Gary Moore; Campbell County Judge/Executive Steve Pendery; Burlington Fire Protection District Chief Jeff Barlow; Point Pleasant Fire Protection District Assistant Chief Eric Seibel; Doug Bivins, BlueStart US, Hebron, Kentucky; Michael Poynter and Bob Andrew, Kentucky Board of Emergency Medical Services; Chief Gregg Bayer and Chief Cathy Rigney, Kentucky Association of Fire Chiefs; Dan Ison, Shelby County; Ron Wolf, Associated General Contractors of Kentucky; Bryanna Carroll, Kentucky League of Cities; and Gay Dwyer, Kentucky Retail Federation.

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

Ms. Kristin Baldwin, Vice President of Public Affairs and Communications with the Northern Kentucky Chamber of Commerce, welcomed the committees and told members about the events planned for them in conjunction with Northern Kentucky United.

**Welcome and Discussion of Local Issues**

Boone County Judge/Executive Gary Moore also welcomed the committees to Northern Kentucky. He told the members that daytime population has doubled in Boone County. The Visitor's Bureau, TANK, and Sanitation District #1 are collectively working together. If Northern Kentucky is given the tools, it can fend for itself.

Campbell County Judge/Executive Steve Pendery told the committees that Northern Kentucky is working for prosperity. There are 37 cities within three counties of Northern Kentucky. Eighty percent of the jobs within the region are in Boone County.

In conclusion, Judge Moore mentioned the Amazon hub that is going to be built in Boone County.

**Discussion of Consolidation of Local Emergency Services**

Chief Jeff Barlow, with the Burlington Fire Protection District, discussed Fire/EMS/Rescue Governance Reform. The Boone Emergency Services of Tomorrow Comprehensive Study and Recommendations was initiated in October 2017, and released in October 2018. The study included three separate analyses: (1) retaining independence, (2) full consolidation, and (3) semi-consolidation by enhancing cooperative agreements.

Governance reform legislation for fire agencies is needed because tax reforms reduce revenues essential to providing fire/EMS/rescue services; economic growth and development create service demands before revenues are realized; there can be an unequal cost share for services; and decreasing volunteers and labor shortages create operational costs that exceed prior legislative funding models.

The author of the study recognizes that the legislature seeks direct public accountability of service boards; seeks taxpayer protections; November ballot elections for governance; represents taxpayer interests for essential services with timely delivery; and wants to ensure that service boundaries are consistent with ballot precinct boundaries for general elections to be possible. The public needs to have a strong and direct voice in the level of service expectations for their local community. Voters decide the amount taxpayers in that locale are willing to pay for emergency services.

Assistant Chief Eric Seibel, with the Point Pleasant Fire Protection District, discussed current challenges to fire/EMS/rescue. Volunteers, labor pools, revenue authority and sources, and grants/alternative funding is decreasing, disappearing, or limited. Residential/commercial growth and sprawl, run volume, service demands/expectations, personnel costs, CERS contribution rates, and operational costs are increasing. Problems in the 21st century include operating well beyond expectations of original charter and changing the mission and responsibility of the fire district. The 20th century structure is not working anymore. There is a misunderstanding of how KRS Chapter 75 Fire District Board members are elected, a misunderstanding of board members' authority and responsibility, and there is limited revenue authority.

The anticipated benefits of consolidation include combining administrative functions and eliminating redundant administrative efforts, creating a diverse specialized-skill career path for personnel that is currently unsustainable; recruiting and retaining improvements by growing workforce strengths; strengthening mid-level officers and management; expanding and strengthening specialized divisions and services; reducing and eliminating redundant capital; and increasing purchasing power.

Chief Barlow told the committee that fire districts are asking for the creation of a new entity, whereby the existing Chapter 75 Fire Districts or other organizations can opt to remain independent entities as they currently exist and municipalities and counties can opt to continue to provide their own services. There should be clear accountability of the governing board—majority elected on general November ballot, and there should be diversified revenue and taxing authority. Legislation for the new entity needs to: (1) protect existing retirement structures; inclusion provides no greater, and no less, retirement system benefit status for employees; (2) protect existing health plan coverages already in place to allow continuation of existing health insurance coverage; no state health insurance mandate; and (3) provide that taxation beyond any established caps be required to present to voters for a direct ballot decision. Accountability stemming from the legislation would be through requiring: (1) existing elected boards passing a majority decision to opt-in to a consolidated emergency service district; (2) voters directly elect majority of the board governing a consolidated emergency service district; and (3) voters directly voting to approve or deny any taxation beyond existing limits.

Mr. Doug Bivins, Chief Operating Officer for BlueStar US, gave the committees background on BlueStar, which is located in Hebron, Kentucky. BlueStar is one of the largest and fastest growing solutions-based distributors in the world. Point Pleasant Fire Protection District cooperated with Mr. Bivins in explaining their fiscal obligations and were good stewards of the district's tax funds.

Senator Thayer said he was interested in seeing details of the fire districts' proposal. There should be accountability and transparency from the boards. It is an inefficient way to fund the fire districts. He likes the idea of consolidation and direct November elections but does not want new bureaucracies to be created.

Representative Miller stated that he agreed with Senator Thayer and applauds the fire districts' idea of consolidation. In response to a question from Representative Miller, Chief Barlow replied that not all fire districts charge the 20 cents maximum for fire service. Most fire districts charge 17 to 20 cents with the smallest being 12.2 cents.

In response to another question from Representative Miller, Chief Siebel said the Boone County response time is 12 to 15 minutes. The response time should be within five minutes.

**Discussion of Fire Department Hiring of Candidates having EMT and Paramedic Certification**

Mr. Michael Poynter, Executive Director of the Kentucky Board of Emergency Medical Services (KBEMS), gave the committees the following statistics: there are 13,379 certified or licensed providers; 220 licensed EMS agencies; 1,147 ground ambulances; 72 helicopter ambulances; five fixed wing ambulances; 885,307 EMS incidents in 2018 (2,426 per day); one out of every five citizens are in contact with EMS annually; and patients 50 years and older account for 68 percent of all EMS incidents.

There are four disciplines of training: (1) Emergency Medical Responder (EMR) which requires 50 hours of training and provides basic immediate lifesaving interventions; (2) Emergency Medical Technician (EMT) which requires 150 hours of training and provides basic stabilization and safe transportation of patients; (3) Advanced Emergency Medical Technician (AEMT) requires 400 hours of training and provides basic and advanced stabilization and safe transportation of patients; and (4) Paramedic which requires 2,000 hours of training and provides advanced care for critical and emergent patients.

Since 2011, there has been a certification and licensure pass rate improvements of 14 percent for EMTs and has improved 28 percent for paramedics.

There are five agency organization types: hospital, governmental/non-fire, community/non-profit, fire department, and private/non-hospital. The number of providers has increased but they are having challenges in staffing them. Splitting in certification training levels, EMR and EMT providers have decreased lately, while AEMT and EMTP providers have increased.

The concerns of KBEMS include: staffing; growing industry; expanding roles, which include critical care, flight paramedic, community, wilderness, tactical and emergency paramedics; furthering education; and salaries. Responses to the concerns include researching alternative training delivery methods, which include accelerated training, distance learning, and scheduling around work; increasing marketing and public relations; Education Committee Accreditation Workgroup identifying best practices; regulator revisions to address issues brought to the Board by stakeholders; and leadership.

Chief Gregg Bayer, President of the Kentucky Association of Fire Chiefs (KAFC), told the committee that fire chiefs are dedicated to ease the burden on EMS, in particular regarding recruitment, retention and also training. Training time is an issue. The KAFC is looking at on-line learning and workforce development programs. He referred members to written remarks from Chief Wayne Briscoe of the City of Frankfort, which were included in the committee members' folders.

Chief Cathy Rigney, with the Winchester Fire Department and KAFC, stated that she agreed with Chief Bayer. The KAFC would like different options on the front end to get boots on the ground.

Regarding higher education requirements, Representative Meredith commented that he feels a precedent is being set that is cost prohibitive and would like to steer away from the requirement of higher education. In years past, Kentucky did not require national registry recognition. He wanted the KBEMS' thoughts about the national test.

Mr. Bob Andrew, Director of Education with the KBEMS, told Representative Meredith that state law establishes standards. He discussed the history of the various elements in the scope of practice and the use of the National Registry Exam and the rationale behind its use.

Representative Meredith commented that Kentucky needs to focus on practicing in the field instead of taking a test.

Representative Rothenburger commented that his biggest concern is EMT training classes do not seem to be offered anymore in the rural areas. The Kentucky Fire Commission was looking at making money available for EMT training.

Mr. Michael Kurtsinger, with the Kentucky Fire Commission, told Representative Rothenburger that there is money in the budget for EMT training but could not commit at this time.

Chief Bayer commented that it has become more burdensome to provide training programs. There needs to be more training but it is so cost prohibitive right now.

In response to a question from Representative Tipton, Mr. Poynter stated that ten high schools offer EMT training. Mr. Andrew added that 13 high schools offer paramedic training programs. The KBEMS is trying to get more. Satellite programs are available and held offsite.

Senator Schroder announced that the next meetings of the two committees would be held on August 22nd at the Kentucky State Fair.

There being no further business, the meeting was adjourned at 4:30 p.m.

## INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

**Minutes of the 2nd Meeting of the 2019 Interim**

July 11, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, July 11, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Perry B. Clark, Rick Girdler, Denise Harper Angel, Ernie Harris, Alice Forgy Kerr, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, John Blanton, Charles Booker, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Savannah Maddox, Jason Petrie, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Robert Swisher, Commissioner, Department of Workers' Claims; Dale Hamblin, Counsel, Department of Workers' Claims; Mike Nemes, Deputy Secretary, Education and Workforce Development Cabinet; Lana Gordon, Commissioner, Department of Workforce Investment; Charles Aull, Public Policy Manager, Greater Louisville Inc. (GLI).

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

**Approval of Minutes**

A motion to approve the minutes of the June 06, 2019 meeting was made by

Senator Danny Carroll, seconded by Senator Rick Girdler, and approved by voice vote.

**Consideration of Referred Administrative Regulation**

**803 KAR 025:270 & E** – Pharmaceutical formulary. "The purpose of the formulary is to facilitate the safe and appropriate use of prescription drugs in the treatment of work-related injury and occupational disease." Commissioner Robert Swisher and Dale Hamblin were present to explain the administrative regulation and answer questions.

Responding to a question from Representative Al Gentry, Commissioner Swisher stated that the Department had three choices when choosing a pharmaceutical formulary: formulating its own formulary, adopting another state's formulary, or choosing one of the two existing commercial formularies which are the Official Disability Guidelines (ODG) or the American College of Occupational and Environmental Medicine (ACOEM) Guidelines. The ODG formulary is the most widely used and has been adopted by surrounding states. Tennessee and Texas were two states that the Department examined. Answering a follow up question, the Commissioner said that one of Texas's challenges has been getting physicians to abide by the formulary as it applies to legacy injury claims. He said that within the regulation are specific phase out dates that will allow the medical community to adjust to the new formulary. Physicians may prescribe outside of the formulary in certain circumstances if it is proven to be necessary.

Replying to Representative Lynn Bechler, Commissioner Swisher explained that utilization review physicians are selected by the carrier, and a utilization review process has to be provided per regulation. The Department does not have a role in choosing a utilization physician. The Commissioner explained that an aggrieved party has the option to file a medical dispute with the Department.

Answering a question from Representative John Blanton regarding one of his constituents, the Commissioner said that this regulation would not help his constituent who had medications denied and had to request a review of that decision, but the formulary will make it less likely for medications to be denied.

Addressing Co-Chair Danny Carroll, Commissioner Swisher said that the formulary is standardized and all physicians are required to follow it. Statutorily, the Commissioner of the Department has the power to amend the formulary. Per this administrative regulation, the Commissioner is required to review the formulary annually.

Responding to Representative Ashley Tackett Laferty, Commissioner Swisher clarified that the formulary is a binary system in which each medication has either a Y or N status. A Y status medication can be prescribed without a utilization review and without the necessity of preauthorization. An N status medication indicates that the prescribing physician needs to provide more information to the carrier. If a medication is denied, then the prescribing physician can find an alternative that has similar therapeutic characteristics.

**2019 Regular Session House Bills 333 and 391**

The need for these two bills is driven by talent attraction and retention stemming from the struggle to meet workforce demand. There are currently 134,800 job openings in the state but only 26,220 active job seekers. The job demand by 2022 will be 415,041. About 25 percent of graduates from Kentucky post-secondary institutions are employed in the state three years after graduation, and additionally, over the last five years the Commonwealth's average net migration has been approximately 1,500 people per year. The proposed legislation will offer tax credits as an incentive to employees and employers. HB 333, or the Highly Skilled Employee Tax Credit, is for individuals who either stay in Kentucky or relocate to Kentucky to fill a job in a high demand industry sector. These sectors include manufacturing; healthcare; business and information technology; construction; and transportation, distribution, and logistics. The credit would be $1,500 per applicant with a total approval cap of $3 million a year. HB 391, or the Earn and Learn Tax Credit, is for employers who pay the educational expenses of employees in high demand industry areas. There would be a credit of up to 25 percent for employee educational costs, and companies would be eligible for $1,500 per employee per year with an approval cap of 10,000 employees per year. Deputy Secretary Nemes explained that HB 391 also includes a portion that addresses training to qualified employees in recovery. Mr. Aull, of GLI, said that he believes these two tax credits can incentivize companies to develop their own training and educational programs, attract employees from other states, and keep established employees and their families in the Commonwealth. Legislation such as HB 333 and 391 may help the Commonwealth to compete with other states in the region.

**Registered Apprenticeship Program**

Registered apprenticeship provides employers with a highly skilled and qualified workforce that is critical for the state's economic growth and ability to compete on an international scale. Over $1.5 million in federal funding was allotted to the state to expand apprenticeship initiatives which includes 251 registered programs, nine competency based programs, and 3,391 registered apprentices. New programs have been added within the five high demand sectors including a registered nurse program; an information technology program involving coding and programming; and programs in civil service within various state agencies such as the Cabinet for Health and Family Services, Transportation, Commonwealth Office of Technology, and the Department of Veterans Affairs. Deputy Secretary Nemes also discussed the K-Tech Program which is intended to equip students with recognized post-secondary credentials and STEM skills. It was launched with a $627,000 grant for students enrolled in Hazard Independent and Perry County School and offers apprenticeships concentrated in STEM fields such as radiography, nursing, and telehealth technician.

**Unemployment Insurance**

Commissioner Gordon gave an overview of the modernization and progress of the Unemployment Insurance Program. A bill impacting the Service Capacity Upgrade Fund (SCUF) was effective July 1, 2018 and is intended to upgrade technology through the acquisition of new software and increase service delivery capacity by the Unemployment Insurance Division. There is a $60 million collection cap over the course of a maximum of five years with a projected $10 million to $12 million to be collected each year from calendar years 2019 to 2023. In the first quarter of 2019, the Unemployment Insurance Trust Fund balance was $506.6 million, the unemployment contributions from employers was $44.5 million, and the benefits to claimants was $82.1 million. The current maximum weekly benefit is $552, which is greater than the national average of $344. The state's maximum weeks of eligibility is 26 compared to the national average of 24.1 while the average benefit duration is 18.4 weeks compared to the national average of 15.4. The claim duration and maximum benefit amount are challenges for the Department as well as aging technology, re-employment activities, and the success of connecting suitable work with the Commonwealth's workforce. The Deputy Secretary added that unemployment offices are being converted to career centers to better serve not only the unemployed but also those currently employed who want additional training to further their careers.

In response to Co-Chair Danny Carroll, Deputy Secretary Nemes said that HB 333 and HB 391 do have similarities to the Work Ready Scholarship Program, but the proposed bills are tax credits for individuals and employers in the five high demand sectors. Co-Chair Carroll expressed concern that these bills may be a duplication of existing programs and would be costly to the state. Answering another question, Deputy Secretary Nemes stated he is not aware of any plans to propose legislation to address unemployment insurance for smaller businesses that cannot afford to buy into the state's unemployment insurance system.

Addressing Representative McKenzie Cantrell, Deputy Secretary Nemes agreed that it would be beneficial for the two bills to be passed together. Answering a follow up question, the Deputy Secretary confirmed that the high demand industry sectors are ones that have already been established by the Workforce Innovation Board but the Board meets regularly and can recommend changes as needed. Addressing another question, the Deputy Secretary speculated that finance and budget issues could be a factor of why HB 391 says "Not more than 2,500 of the 10,000 employees shall be qualified employees in recovery."

Replying to Representative Nima Kulkarni, Mr. Aull said immigrants are important to workforce development and population growth. Although GLI makes efforts to ensure employers and employees who are immigrants feel welcomed in the Louisville area, immigration reform has to occur on the federal level and is an ongoing issue. Addressing another question, Deputy Secretary Nemes said he would follow up with Representative Kulkarni regarding federal funds collected as a result of the 1998 American Competitiveness in the Workplace Act.

Senator Reginald Thomas expressed concerns about HB 333 and HB 391 due to a loss of funds for the state and the bills are too similar to the existing Work Ready Scholarship Program.

Replying to Senator Max Wise, Deputy Secretary Nemes said there may be some overlap in the Work Ready Scholarship Program and what is proposed in HB 333 and HB 391 but changes can be made during the Interim and before the 2020 Regular Session.

After Representative Jason Petrie expressed concerns about the target audience of the proposed legislation, Deputy Secretary Nemes stated that parts of the legislation should read "skilled" instead of highly skilled to avoid confusion with low skill, medium skill, and high skill. Representative Petrie also expressed concerns about what income levels would benefit most from the tax credit and said he was not convinced it would help those from another state.

Co-Chair Russell Webber announced that the next meeting will be on August 22, 2019 at the Kentucky State Fair.

There being no further business, the meeting was adjourned at 2:41 p.m.

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

**Subcommittee on Economic Development, Small Business, and Information Technology**
**Minutes of the 1st Meeting of the 2019 Interim**

July 19, 2019

**Call to Order and Roll Call**

The 1st meeting of the Subcommittee on Economic Development, Small Business, and Information Technology of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Friday, July 19, 2019, at 1:00 PM, at the CVG Centre in Erlanger, Kentucky. Representative Diane St. Onge, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Diane St. Onge, Co-Chair; Senators Ernie Harris, Wil Schroder, and Reginald Thomas; Representatives Lynn Bechler, George Brown Jr, Chris Freeland, Jim Glenn, Jim Gooch Jr., Richard Heath, Josie Raymond, Bart Rowland, Maria Sorolis, Cherlynn Stevenson, Nancy Tate, and Les Yates.

Guests: Kristen Baldwin, Vice President of Public Affairs and Communications, Northern Kentucky Chamber of Commerce; and Brian Cobb, Chief Innovation Officer, CVG Centre.

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen.

**Northern Kentucky Chamber of Commerce Introduction**

Kristen Baldwin, the Vice President of Public Affairs and Communications for the Northern Kentucky Chamber, welcomed members to Northern Kentucky. She said that although the area only makes up 10 percent of the state's population, it accounts for 20 percent of state tourism. Mrs. Baldwin also explained that there is a need for infrastructure funding to continue to make improvements in the area.

**Cincinnati/Northern Kentucky International Airport: 2019 CVG Update**

The CVG Airport encompasses 7,700 acres, which is larger in land area than the city of Florence, and have runways that are positioned in a way to lessen noise for the surrounding area. In June 2019, CVG set a new all-time local passenger record of 426,246 passengers served. According to U.S. Department of Transportation rankings, CVG's $346 average airfare is the lowest in the region, and it is the only airport in the region lower than the national average of $353. In June 2019, Frontier Airlines announced new nonstop routes from CVG in the fall of 2019 to include Fort Lauderdale, Miami, New Orleans, and Sarasota-Bradenton. The airport is a regional jobs hub with more than 70 employers on campus and more than 31,000 total jobs supported. Employees are 52 percent Kentucky residents, 38 percent Ohio residents, and 10 percent Indiana and other state residents. CVG has an annual economic impact of $4.4 billion, and the total passenger volume has grown 38 percent since 2015. Air service growth has been driving down airfares and therefore contributing to increased passenger volume. Every year since 2016 CVG has supported more than $21 million in income tax revenues for the Commonwealth and more than $4 million for Ohio. Furthermore, the airport supports more than $625 million in direct labor income and more than $1.3 billion in total labor income.

In January 2017 Amazon announced that its new air cargo hub will be located at CVG. This represents a $1.5 billion investment and is projected to create 2,000 jobs at its initial opening. The Amazon Prime Air hub will be over 900 acres and include a three million square foot sorting facility, a loading dock, and ramp space for 100 planes. Until construction of phase one is complete in the third quarter of 2021, Amazon has partnered with DHL to utilize its existing space for package sorting. Groundbreaking for the major project took place May 2019.

Creating a hub of innovation has been a top priority for the airport. CVG is presently engaging startups, integrating universities through research and development, partnering with established companies, and navigating positive regulatory change. Partnerships with startups and universities such as University of Louisville, University of Kentucky, and Northern Kentucky University have been utilized to improve and explore logistics, cyber security, application development, work health and safety, and weather applications. CVG is currently working on automated kiosks for passenger check in that will maximize efficiency and lower costs. Self-navigating Segways that could be used by those with limited mobility are being developed. Lastly, CVG is working to develop wearable technology for individuals with vision disabilities.

Answering a question from Representative Jim Glenn who mentioned the airport in Singapore that has become a tourist attraction, Mr. Cobb said that CVG's main focus is to concentrate on consumers and to offer multiple carrier options.

Responding to Co-Chair Danny Carroll, Mr. Cobb stated that partnerships with regional airports have been created when a plane may require maintenance when it has landed at another regional airport or cases when inclement weather is a factor.

Addressing Co-Chair St. Onge, Mr. Cobb explained that the General Assembly can assist CVG by formulating solutions to connect those looking for employment with the actual job opportunities.

There being no further business, the meeting was adjourned.

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

**Minutes of the 2nd Meeting of the 2019 Interim**

July 11, 2019

**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 11, 2019, at 3:00 PM, in Room 154 of the Capitol Annex. Representative Tommy Turner, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Tommy Turner, Co-Chair; Senators Rick Girdler, Ernie Harris, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Terri Branham Clark, George Brown Jr, Jeffery Donohue, Chris Freeland, Chris Fugate, Jim Glenn, Robert Goforth, Jim Gooch Jr., David Hale, Richard Heath, Cluster Howard, Kim King, Bobby McCool, Michael Meredith, Charles Miller, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Maria Sorolis, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, and Les Yates.

Guests: Victor Slone, Martin County Magistrate; Chris Musgrave, Interim Executive Director, Kentucky Mountain Regional Recreation Authority; Jerry Stacy, President, Kentucky Mountain Regional Recreation Authority; Matt Wireman, Treasurer, Kentucky Mountain Regional Recreation Authority; Frank Jemley, Chief of Staff, Tourism, Arts, and Heritage Cabinet; John Cox, Communications Director, Tourism, Arts, and Heritage Cabinet; Laura Prewitt, Executive Director, Kentucky Horse Park; Kim Baker, President and CEO, Kentucky Center for the Performing Arts; Rich Storm, Commissioner, Department of Fish and Wildlife; Karen Waldrop, Deputy Commissioner, Department of Fish and Wildlife; Kevin Kelly, Public Information Officer, Department of Fish and Wildlife, and Brian Clark, Chief of Staff, Department of Fish and Wildlife.

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

**Approval of Minutes**

A motion to approve the minutes of the June 06, 2019 meeting was made by

Representative Chris Fugate, seconded by Senator Wil Schroder, and approved by voice vote.

**Rails to Trails**

Representative Chris Fugate and members

of the Kentucky Mountain Regional Recreation Authority gave an update of the program. Representative Fugate said he and members of the Authority have looked to the Hatfield and McCoy Trail System in West Virginia as an example for the Kentucky Mountain Regional Recreation Authority. Last year the Hatfield and McCoy Trail System generated $2.1 million in permit fees and had 51,000 visitors, 85 percent of which came from outside a 100 mile radius of the trail system. Representative Fugate detailed other statistics of West Virginia's trail system and said that the development of Eastern Kentucky's trail system could create major tourism and economic development opportunities. He stated that he hopes in the 2020 Regular Session the General Assembly can appropriate funds for the Authority, including hiring a permanent executive director.

Interim Executive Director Chris Musgrave said that in May of 2019 the Authority had a foundational meeting to establish the board members and have had two other meetings. Mr. Musgraves has accomplished everything thus far as a volunteer but cannot continue on as the permanent executive director. He was recently appointed as the Chief of Staff for the Department of Local Government which will be a conflict of interest. With a full time executive director, the Authority will be able to move forward with finalizing arrangements with existing trails, setting up accounts with the Finance and Administration Cabinet, obtaining insurance, among other things. The Authority would like to be a self-sustaining entity that operates without interference from the General Assembly. Thus far, all counties involved have verbally agreed to contribute $5,000 initially for the hiring of an executive director. At the Authority's last board meeting it was decided it would form a 501(c)(3) to seek private funding. Mr. Musgraves pointed out that the way the legislation was written, there are many other recreational opportunities possible besides ATV trails such as bicycle trails, horse trails, blue water trails, and historic and cultural sites.

The President of the Authority, Jerry Stacy said that the economic impact in West Virginia from the trail system was $23 million. The creation of that type of economic impact would be extremely beneficial after the loss of coal mining jobs in the region. The trail system will begin to generate revenue along with the creation of other entrepreneurial and investment opportunities. All 35 counties involved with the Authority have pledged to find funds in their budgets to help assist with the endeavor. Matt Wireman, said that recreational opportunities are imperative to the distressed counties in Eastern Kentucky. Establishing the trail system and other supporting businesses will help to draw in more visitors, create jobs, and add new money into the economy.

In response to Representative Bobby McCool, Representative Chris Fugate said that the trail system in West Virginia had been funded through permit sales and support from the state legislature, but it will take time to start selling permits for the trail system in Eastern Kentucky. The trails in the various counties have to be connected and marked. In addition, land agreements have to be established with property owners. Once those steps are taken, permits can begin to be sold to the trails. Mr. Musgrave added that West Virginia generates substantial revenue from paraphilia sales from the Hatfield and McCoy Trail System. Answering another question, Mr. Musgraves said the Authority was set up to be a non-taxing special purpose governmental entity.

Replying to Representative Lynn Bechler, Representative Fugate stated that $1 million over the two year budget cycle would be requested from the state General Assembly in the coming Regular Session to get the trail system off the ground. Representative Fugate said that the goal is to connect all of the trails legally with permission from land owners. He said eventually the Authority would like to connect the trails of Eastern Kentucky to the Hatfield and McCoy Trail System in West Virginia and the Spearhead Trails in Virginia to create a three state system.

Answering a question from Representative David Hale, Representative Fugate confirmed that there are 35 counties in the Authority, and it has a board that includes nine county representatives which is either a county judge executive or a designee. Those nine board member seats will be rotated each year, going in alphabetical order of the county. In addition, the board includes the Secretary of the Tourism, Arts, and Heritage Cabinet; the Commissioner of the Department of Local Government; the Commissioner of the Department of Fish and Wildlife; a nonvoting state Representative; and a nonvoting state Senator. Co-Chair Tommy Turner added that some county fiscal courts in the eastern part of the state requested to be included in the legislation that were not originally involved.

Addressing a question from Representative Michael Meredith, Representative Fugate explained that West Virginia's state legislature gave $1 million for liability insurance and its Authority purchased an additional $9 million of coverage, but the Authority assumes all liability and all private land owners receive sovereign immunity. Representative Meredith pointed out the recent federal court rulings that may have some effect on waiver systems for places that charge a fee to use their facilities.

Representative Cherlynn Stevenson commended the idea of creating a trail system because it can add to the economy through adventure tourism in the eastern part of the state. She said that tourism revenue is often not capitalized on in the Commonwealth.

Responding to a question from Representative Terri Branham Clark, Representative Fugate confirmed that it is planned for all trails in the 35 counties listed in statute to be connected, including her district of Boyd County.

Replying to Representative Robert Goforth, Mr. Musgraves said that he does not have a complete list of contact information for all 35 county representatives to send meeting notifications to yet, which highlights the need for a full time executive director.

Representative Ashley Tackett Laferty made remarks about the development of the trail system and the possible economic opportunities it can create for the distressed counties of Eastern Kentucky which could create other adventure tourism activities, restaurants, shops, and supporting businesses.

**Tourism, Arts, and Heritage Cabinet**

Frank Jemely, Chief of Staff for the Cabinet, stated that information requested at a previous meeting regarding the return on investment of a $150 million proposal for renovations to state parks had been dispersed to members. He said that by August 1, 2019 members of the General Assembly would be provided with a list of completed, planned, and current projects of the Department of Parks.

**Kentucky Horse Park**

The Executive Director of the Kentucky Horse Park, Laura Prewitt, gave an overview of the economic impact of the park, new events at the park, and future events. A 2016 analysis showed that the park has an annual economic impact of over $130 million to the Commonwealth. That impact is attributed to the park's events, tourists, and campgrounds. The park holds over 200 equine and non-equine events each year, with six new events being added in 2019. Those events included the first park owned horse show, The Kentucky Horse Park Spring Opener. The park has hosted almost 20,000 horses this year, which means the people working with and coming to see those horses are spending money in Central Kentucky at hotels, restaurants, shops and other local businesses.

Although the park has added several new revenue streams, the staff has been focused on some international events such as the German based Equitana that will be held at the Park in 2020. The three day event is expected to bring at least 30,000 to the Park some of which will stay at the park's campground. The park's campgrounds welcome an average of 40,000 campers a year that come from all 50 states, but Kentucky residents account for 44 percent of reservations. In addition, group tours and horseback riding have become a renewed focus which has showed a 10 percent increase in revenue. Ms. Prewitt closed by detailing an online ticket solution that will allow visitors to purchase daily, annual, and parking passes online beginning in early August 2019.

**Kentucky Center for the Performing Arts**

The President and CEO, Kim Baker, outlined the history, operation, and an upcoming venue opening of the Center. In 1980 the General Assembly and Governor John Y. Brown developed a plan to build the $33.5 million Center through a public private partnership in which the state would provide partial funding, a foundation would provide partial funding, and a portion of the Louisville transient room tax would also fund the operation of the Center. It was established as a 501(c)(3) to promote the growth and development of the arts while serving as a catalyst for tourism and talent attraction. The board of directors are appointed by the governor and the center is administratively attached to the Tourism, Arts, and Heritage Cabinet. The Kentucky Center for the Arts Corp was also created, in conjunction with the Finance and Administration Cabinet, to supervise construction of the center and provide all management functions for facility or any other property acquired or leased. The center is not included in the state's personnel or pension systems and is considered a component unit of the Commonwealth. Sources of funds for the fiscal year 2020 budget included two percent from the Governor's School for the Arts state appropriation, one percent from a state maintenance pool, 19 percent from the Louisville transient room tax, 10 percent from contributed income, and 68 percent through center operations. The budget in 1983 was $3 million and the budget for fiscal year 2020 is approximately $25 million.

The Kentucky Center for the Arts Corp has a family of venues that included the Kentucky Center, the Brown Theater on Broadway, and the Old Forester's Paristown Hall. The Kentucky Center houses Whitney Hall, Bomhard Theater, and MeX Theater. The Brown Theater was purchased by the center in 2018 and the Old Forester's Paristown Hall opens to the public July 23, 2019. Old Forester's Paristown Hall is a 2,000 person standing room and part of a larger $32 million development project that is receiving tourism tax incentives. The venue is financed through private donations and a private commercial loan which will be maintained by the Kentucky Center for the Arts Foundation. It will attract national music artists with local, regional, and national audiences while driving tourism dollars to the area. Ms. Baker reiterated that no state tax dollars were used to build the Old Forester's Paristown Hall. She closed by giving an overview of the Kentucky Center Governor's School for the Arts (GSA), which has been hosted over the years at Bellarmine University, Centre College, Transylvania University, and University of Kentucky. GSA has 98 percent of its students attend college with 92 percent receiving a scholarship averaging $20,000.

**Department of Fish and Wildlife**

Department leadership gave overviews and updates. The Department uses various platforms to relay information to the public including Kentucky Afield Television, which is the longest continuously-running outdoors television show in the country, Facebook, Twitter, and YouTube. Although Kentucky Afield Television draws 250,000 viewers each month, the most growth has been with YouTube page which receives 12 million views a year. The Department has created 25 information videos this year that have garnered 350,000 Facebook views. Available on its website are statewide news releases, meeting agendas, video archives of committee and commission meeting, and quarterly financial reports. Another communication medium that has been expanded is GovDelivery, which is a communication tool that will allow the Department to engage customers and staff by email.

Some of this information dispersed to citizens includes details regarding the Asian carp crisis that the state is currently facing. Black, bighead, and silver carp have been infesting the lakes and rivers for the past several years. One solution has been the creation of a bio-acoustical fish fence that will be installed by the end of 2019 at Lake Barkley. These fences will use bubble fences and a sound deterrent to prevent the fish from continuing to travel any further. This effort is a collaboration with the U.S. Fish and Wildlife Service, the Unites States Geological Survey, the Tennessee Wildlife Resources Agency, and the United States Army Corps of Engineers through a three year research grant. The Department also recently began contracting with commercial fishermen to remove carp around the Louisville area through a $400,000 grant from the U.S. Fish and Wildlife Service. Nine commercial fishermen are already under contract and in a one day pulled out 8,000 pounds of fish from the Ohio River. The Department has also partnered with the Kentucky Fish Center to help combat the massive number of carp. The Kentucky Fish Center is a private business whose goal is remove five million pounds of carp from waterways by the end of 2019. Deputy Commissioner Karen Waldrop highlighted a press release that had just been issued which said the U.S. Fish and Wildlife Service would dedicate personnel and equipment to the state to combat the carp infestation, specifically deploying its unified method which is a combination of sound and specialized netting.

Chronic wasting disease (CWD) was also discussed which is a neurological disease that effects deer, moose, and elk. It is a contagious prion disease that causes deterioration of the brain and causes the animals to become emaciated, lose their fear of humans, react erratically, and can eventually be fatal. CWD has not been found in the Kentucky but has been found is six out of seven of the surrounding states. Due to the proximity of known cases in other states, forward planning is being utilized through the department's communication team. Community forums have been held in the western, eastern, and northern parts of the state to give information about how to prevent CWD from crossing into the Commonwealth.

Boater safety is currently being focused on, specifically the use of alcohol and wearing life jackets which are the top two factors in causes of boat fatalities. Public service announcement videos have been created by the Department and posted on social media to bring awareness to boating safety. Kentucky law requires each occupant of a boat to have a life jacket. Boating safety educational videos are available on the department's website, and a boating safety coordinator was recently hired. Department Chief of Staff Brian Clark thanked members for the passage of HB 248 during the 2019 Regular Session that gives conservation officers added authority to make boating under the influence arrests based on probable cause.

Commissioner Rich Storm closed by detailing the department's summer camp program. More than 250,000 people have taken part in the summer camp programs over the years. There will be 4500 kids ranging in ages of 10 to 13 to attend during the summer 2019. The campers will learn about nature, archery, boating, outdoor survival, firearm safety, fishing, and swimming. At the close of camp, the children can obtain completion patches and their hunter education card. The program staffs a director, educators, superintendents, and maintenance workers and has 8 air-conditioned cabins per camp that hold 25 to 30 campers. The yearly budget of the program is $1 million which is about $300 per camper.

Representative Ruth Ann Palumbo thanked Ms. Prewitt for what the Kentucky Horse Park has done in for the economy in her district.

Replying to a question from Co-Chair Tommy Turner, Commissioner Rich Storm stated that historically CWD has been transmitted from both wild herds and commercial farms. He said the zones of cases are hard to track because of the unpredictability of tracking the animals. Three cases in surrounding states are within 100 hundred miles of the state lines. The Commissioner explained that it can take over a year before a case is discovered. Commissioner Storm said it may be time revisit commercial deer farm legislation, and the department has planned to put together another deer working group to combat CWD.

Responding to Representative Charles Miller, Deputy Commissioner Karen Waldrop explained that dock permits are usually obtained through the department but there are certain cases when they would be obtained from United States Army Corps of Engineers depending on the location of the dock.

Representative Chris Fugate expressed his gratitude to the commissioner and the department for the success of the summer camp program in Perry County.

Addressing Representative Michael Meredith, Commissioner Rich Storm said the Department is fully supportive of double fencing of deer farms in an effort to prevent CWD.

Answering a question from Co-Chair Tommy Turner, Deputy Commissioner Karen Waldrop said because prions have been found in urine this can be a way to transmit CWD. Some states have banned urine unless in the synthetic form. Responding to another question, Commissioner Rich Storm said the economic impact of deer hunting industry in the state is $550 million.

Replying to Representative David Hale, Deputy Commissioner Karen Waldrop said that there are over 20 full time commercial fishermen in total working on the Asian carp issue but more are needed. Answering another question, she said that the market is there for the carp that are being harvested. Commissioner Rich Storm said there has been interest from the lobster bait industry.

Representative Kim King spoke of her personal experience with the Department's summer camp program.

Co-Chair Danny Carroll expressed his appreciation of the Department's summer camp programs and thanked the Commissioner and Department on behalf of his constituents for their work on the carp crisis.

Representative Lynn Bechler stated that there have been a lot of entrepreneurial efforts made in his district and surrounding areas to deal with the Asian carp including carp concrete.

Co-Chair Tommy Turner announced that will be a Subcommittee on Economic Development, Small Business, and Information Technology meeting on July 19, 2019 in Northern Kentucky, and the next meeting of the full Interim Joint Committee on Tourism, Small Business, and Information Technology will be on August 22, 2019 at the Kentucky State Fair.

There being no further business, the meeting was adjourned at 4:52 p.m.

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

### Minutes of the 1st Meeting of the 2019 Interim

July 19, 2019

**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 19, 2019, at 10:30 AM, at Chas Seligman Distributing Company, 10885 Clydesdale Court, Walton, KY. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Tom Buford, Christian McDaniel, Damon Thayer, and Reginald Thomas; Representatives Matthew Koch, Nima Kulkarni, C. Ed Massey, Chad McCoy, Jerry T. Miller, Kimberly Poore Moser, Phillip Pratt, Diane St. Onge, and Buddy Wheatley.

Guests: Kristen Meadors Baldwin, Northern Kentucky Chamber of Commerce; Jennifer Doering, Chas. Seligman Distributing Company; Bryan Alvey, Kentucky Distillers Association, Jack Wells, and Josh Quinn, Boone County Distillery, Ken Lewis, New Riff Distillery; Dan and Peggy Montgomery, Verona Vineyard Winery; Jessie Brewer, Boone County Commissioner.

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

**Minutes**

The minutes from December 10, 2018, meeting were approved without objection.

**Welcome**

Kristin Meadors Baldwin, with the Northern Kentucky Chamber of Commerce, welcomed members to Northern Kentucky. She said that passage of sports gaming could have a 20 percent increase in state tourism.

**Chas Seligman Distributing Company**

Jennifer Doering, Chas Seligman Distributing Company, and her family welcomed the committee. She thanked the committee and the General Assembly for passing legislation that makes the alcoholic beverage industry more responsible.

**Kentucky Distillers Association**

Ken Lewis, New Riff Distilling, said the bourbon industry is increasingly important to Northern Kentucky. Northern Kentucky is often seen as a suburb of Cincinnati. The bourbon industry helps tie the area into the culture of the rest of the state. New Riff is five years old and has invested $22 million in two campuses. Another campus with new rick houses is in the planning stage. Later this summer, the distillery will add three additional fermenters, creating a 50 percent increase in production capability.

Because of the economic investment and additional tourism, during the last six years the attitude has changed toward the industry. However, the industry does need continued reduction of red tape and regulatory reform. The Supreme Court in Tennessee will clarify the issue of commerce clause versus the right for states to sell alcohol. This is important for the smaller business to be able to ship to other states. Also, the ability to sell single bottles to tourists in distillery gift shops will benefit the business.

Jack Wells said the craft industry appreciated everything that the legislature has done over the past few years regarding regulations. Boone County Distilling Company is only four years old and is a much smaller operation than New Riff Distillery. Tourism has become a big part of their revenue stream. The brown sign on the interstate has increased visitors 150 percent. With e-commerce, alcohol needs to ship across state lines. Protect the shipping companies is currently the biggest problem.

The federal government placed a temporary reduction in the tax on proof gallons for craft distilleries from $13.50 a proof gallon to $2.70 a proof gallon. This has an effect on their business and what they are able to reinvest in their operations. A tax break for craft distilleries would be helpful.

Josh Quinn, Boone County Distillery, said New Riff Distilling, Boone County Distillery and other small distilleries in the area are united and consider themselves to be colleagues.

Bryan Alvey, Kentucky Distillers Association (KDA), said the Northern Kentucky region is having a significant impact on the bourbon industry. As of 2018 the industry employed over 20,000 people with a payroll of $1 billion dollars, and $2 billion dollars in capital investment. KDA partners with many other industries in the state to bring in tourism. Visitors who come to Kentucky to visit a horse farm also want to visit a distillery or a winery. The Bourbon Trail and the Bourbon Trail Craft Tour had over 1.4 million visitors in 2018.

HB 400 opened the door for shipping. The Tennessee Supreme Court decision will also have a positive impact. The KDA is letting other states know that we are open for business. The UPS is working with software companies to have interstate shipping become a reality.

The bourbon industry is the highest taxed industry in the state with 60 percent of the revenue from every bottle going to taxes. It is hoped that the federal tax extension that Mr. Wells mentioned will become permanent.

In response to a question from Representative Koenig, Mr. Lewis said New Riff competed in the San Francisco International Spirits competition, considered the most prestigious in the world. New Riff submitted five entries and all five won double gold.

In response to a question from Senator Thayer, Mr. Alvey said there are a lack of reciprocal states and helpful language in other states shipping laws. In Hawaii, if a resident wants to ship a bottle of spirits to their home from another state they must have a retail license. Common carriers do not have the luxury of time to check for a license. Alaska, on the other hand, is wide open, as is D.C. IMX is a software company that KDA and UPS have been working with regarding compliance. There are also discussions regarding new legislation. Finally, the in-person piece of HB 400 could be considered unconstitutional. There have been no law suites challenging it so far; however, that is a factor.

In response to a question from Senator Thomas, Mr. Alvey agreed that because of the Tennessee Distillers v. Total Wine case other states will see an opportunity to begin online sales. Kentucky currently ranks 11th in distilleries in the United States, even though Kentucky still produces 95 percent of the worlds bourbon.

In response to a question from Representative Miller, Mr. Alvey said common carriers choosing to ship and laws in other states loosening restrictions will make shipping to other states easier. When parity is realized it will be easier to ship out of state.

In response to a question from Representative Kulkarni, Mr. Alvey said there is a detailed breakdown of where tourists visit and spend their money. Seventy percent are from either out of state or out of the country. These are affluent visitors who spend money in the area. This is good for wineries, distillers, restaurants and hotels.

**Economic Benefits of Small Farm Wineries**

Dan and Peggy Montgomery, Verona Vineyard Winery, noted that their winery was small in comparison to the other alcohol industries in Kentucky. The winery was established in 2005, planting 2,500 vines on the farm in Verona. In addition to the grapes, fruit trees and chestnut trees were planted. Currently Verona Vineyard Winery has a capacity of 15,000 bottles, or 3,000 gallons in comparison to other wineries in Kentucky who are producing hundreds of thousands of gallons. The winery has won awards for every vintage released since 2008. Revenue has grown between 30 and 50 percent for the last eight years.

Currently there are four full-time employees and 15 part-time employees working in the winery and restaurant. The winery has partnered with Walton-Verona High School FFA program funding events and working with students, educating them about the wine industry and how farming is important to this industry.

Partnering with other industries is important to grow tourism in the state. Therefore the winery is now licensed to sell bourbon and beer. They have also added food sales to enhance the experience.

Facebook is a primary mode of advertisement for the winery with 9,800 followers on their page. Forty-five percent of the winery's revenue comes from customers from Indiana and Ohio.

Another consideration for the winery is growing their customer base, and becoming known as the place people go for a consistent experience. It is important to cultivate a team that partners with local high schools and two year colleges to develop individuals who want to work in food service, farming, and manufacturing. This ensures quality in the products that they sell as well as great customer service and the hospitality that Kentucky is known for. With today's interest in "farm to table" restaurants, the winery gets requests to deliver wine to those restaurants. However, this can be cost prohibitive with the current distribution model. Automation of the licensing processes would be less time consuming.

Senator Schickel commended the Montgomery's for all the hard work that they have put into their winery, adding that it is a beautiful place to visit.

In response to a question from Senator Thomas, Mr. Montgomery said this is a tougher climate for growing grapes with a lot of heat and humidity. The American varietals Chambourcin, Norton, Vidal all make good wines. The winery also grows traditional French Vinifera, Cabernet Franc, Petite Verdot, Riesling and Chardonnay, also, a German varietal called Dornfelder. Kentucky does not have a signature varietal, a grape that we are known for, but the industry is working to develop such a grape. Once a grapevine is established in this climate it will do well. Legislatively the industry could use help with distribution to small local restaurants that want to carry local wine but cannot find a distributor who will sell one case at a time.

**BR 94 AN ACT relating to Criminal Damage to Rental Property**

Jesse Brewer, Boone County Commissioner, said that not all tenants treat rental property with respect. There have been instances of damage to kitchen cabinets, intentional cigarette burns in carpets, broken windows and leaving trash behind for the property owner to clean up. This type of damage is costly to the property owner. A county attorney has advised that, because it is a civil matter, their office is not able to be of assistance in recovering money the owner is out for repairs.

BR 94 will help landlords screen future rental residents in order to protect their property investments. By reducing damage, and thus reducing the cost of repairs, investors will have more capital to invest in other projects. Additionally, the new screening tool will improve neighborhoods and communities.

In response to a question from Senator Thayer, Mr. Brewer said that with this new tool there would be a way to track damage left by a tenant that would be reflected on the background check allowing the landlord to rent to a better quality tenant.

Senator Schickel said that there would be a tour of the distributor warehouse showcasing all aspects of the business.

There being no further business, the meeting was adjourned at 11:36 AM.

## INTERIM JOINT COMMITTEE ON JUDICIARY

**Minutes of the 2nd Meeting of the 2019 Interim**

July 12, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Judiciary was held on Friday, July 12, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

<u>Members:</u> Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, Gerald A. Neal, Wil Schroder, Dan "Malano" Seum, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives John Blanton, Charles Booker, Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Chris Harris, Joni L. Jenkins, Stan Lee, Derek Lewis, Savannah Maddox, C. Ed Massey, Patti Minter, Jason Nemes, Brandon Reed, and Maria Sorolis

<u>Guests:</u> Senator Wil Schroder, Ted Sandmann, Jasmine Heiss, Mike Shea, Tom Underwood, Gay Williams, Ed and Karen Hyde, Matthew Henderson, Gabrielle Summe, and Senator Robby Mills

<u>LRC Staff:</u> Alice Lyon, Chandani Kemper, Dale Hardy, Matt Trebelhorn, Raleigh Dixon, and Yvonne Beghtol.

**Dissemination of Personally Identifying Information About Minors**

Ted Sandmann, father of Nicholas Sandmann, said that, on June 18, 2019, Nicholas attended the March for Life in Washington, DC with other students from Covington Catholic High School. Video from that day of Nicholas standing face-to-face with a Native American man who was chanting and beating a drum was posted online. That video became "viral" by being shared widely across social media platforms and resulted in threats of violence against students, parents, and the school.

Senator Schroder testified that he would be filing "anti-doxing" legislation, similar to SB 240 from 2019, to protect minors from the types of threats Nicholas Sandmann faced. SB 240 criminalized the online dissemination of personally identifying information about a minor when done with the intent to intimidate, abuse, threaten, harass, or frighten a minor, and when it creates a reasonable fear of physical injury to the minor. Sentencing begins at a Class A misdemeanor. If physical injury is involved, it is a Class C felony. If the minor or minor's household members suffer monetary losses, there are additional graduated criminal penalties.

Chairman Westerfield stated that, while the legislature cannot keep adding new crimes, he supported this legislation because being in the age of the internet brings new conduct and requires new boundaries.

In response to Senator Wheeler, Senator Schroder said he will amend the bill to include all high school students, regardless of age.

In response to Representative Cantrell, Senator Schroder could not recall Utah's exact anti-doxing penalties.

In response to questions from Representative Nemes regarding criminal penalties being contingent upon the acts of another person, Senator Schroder stated that if someone makes the identifying information available, then that person participated in the crime by giving others the tools to make contact.

In response to Representative Jenkins, Senator Schroder advised that merely posting online alone would not qualify as a crime; there would also have to be a reasonable fear of injury and the necessary intent. Existing bullying laws would not cover doxing.

In response to Senator Harris, Senator Schroder said holding a person from another state accountable under a Kentucky statute is done in other areas of law.

**Approval of the minutes of the June 7, 2019 meeting**

Representative Petrie made a motion to approve the minutes, which was seconded by Representative Massey and approved by voice vote.

**County Jail Populations and Trends in Incarceration**

Jasmine Heiss, Campaign Director for "In Our Backyards" with the Vera Institute of Justice, and Mike Shea of Government Strategies presented statistics on jail incarceration in Kentucky. "In Our Backyards" is focused on shrinking jail populations in rural communities, which bear the heaviest burdens of mass incarceration while major urban areas reduce their use of jails.

Vera's analysis of the data collected by the U.S. Bureau of Justice Statistics, the Kentucky Department of Corrections (DOC), and individual counties identified the drivers of jail incarceration: high rates of pretrial detention, the prevalence of drug related charges, and the use of local jails to hold people for the state and federal prison systems.

Regarding pretrial detention, the Vera Institute seeks to support accused people in the community before trial, rather than holding people who cannot afford monetary bail prior to trial. Between 2000 and 2015, pretrial detention in Kentucky grew at nearly twice the national rate, with most of the growth in counties with fewer than 30,000 residents.

The Vera Institute has documented lasting negative impacts. A 2013 study of Kentucky's pretrial practices found that people who were held for all of the pretrial period were more likely to be re-arrested on new charges following disposition of their case than those released before trial. As few as 2 days in pretrial detention were associated with an increased likelihood of a new arrest, and the longer people were held, the more likely to be re-arrested. The negative impacts of pretrial detention are most pronounced for those classified as low risk, charged with lower-level offenses, or held on low monetary bail amounts. Families are also impacted; a 2002 national study found that two-thirds of the women held in jail because they could not afford monetary bail amount were also the mothers of children under the age of 18.

In the United States, 68 percent of the jail population has a substance use disorder. Research has shown that community-based drug treatment is more effective than incarceration, and produces long-term savings from reduced crime and the reduced cost of incarceration. Also, recently incarcerated people are significantly more likely to die of an overdose because a person's tolerance for drugs has lessened while incarcerated.

Kentucky is one of only a few states that relies on contracts with local jails to confine people sentenced to a state prison term. Nearly half of state inmates are held in Kentucky's 76 county jail facilities, led by Fulton, Simpson, Webster, Larue, Todd, and Casey counties. In August 2018 approximately 90 percent of Kentucky's jails were operating above capacity. A 2006 State Auditor's report on Kentucky jails found that housing state inmates exacerbated overcrowding in county jails.

Some counties see building large jails to hold state prisoners as a revenue solution for the county, but the Vera Institute has identified two major risks with that approach: when having more beds eliminates a physical limit on pretrial detention, pretrial detention rates grow, and local taxpayers must pay for the cost of an expanded jail if DOC decides to stop using the beds. For example, after the Breckinridge County jail expanded in the early 2000s to hold more convicted state inmates, the pretrial population increased 450 percent between 2000 and 2015.

In response to Representative Bratcher, Ms. Heiss said that drug charges underlie most criminal charges, and giving judges more tools to address that could improve public safety outcomes.

In response to Senator Wheeler, Ms. Heiss said connecting offenders with substance abuse programs before trial would benefit everyone, but the methods of coercing people into treatment should be individually tailored.

In response to Representative Minter, Ms. Heiss responded that bail reform is a critical first step in narrowing pre-entry detention.

In response to Senator West, Ms. Heiss stated that available beds are often quickly filled. When beds are not available, authorities must find alternatives. An unintended consequence of having more facilities built is the increase of pretrial detention.

In response to Senator West, Ms. Heiss said reasonable bail should be individually set for each person, lowering the number of those held in detention.

In response to Representative Booker, Ms. Heiss will share Vera Institute materials on disproportionate racial and ethnic impacts in incarceration. Nationally the gap between black and white incarcerations is closing in urban areas, but not rural areas.

In response to Representative Massey, Ms. Heiss stated that the Vera Institute is working to understand federal funding and investing it in community based substance abuse prevention and treatment programs is a key to serving more people.

In response to Senator Schroder, Ms. Heiss stated that the Vera Institute relies on the Bureau of Justice Statistics for their date, and the last comprehensive study was in 2015. Regarding the concern for women in jails, Ms. Heiss will share a Vera report called *Overlooked*. Tennessee passed legislation enabling judges to consider alternatives to incarceration for primary caregivers of children, recognizing that separating caregivers from their children puts the children at a higher risk of incarceration.

In response to Representative Blanton, Ms. Heiss stated that looking at the front end of the causes of these criminal behaviors is what drives the Vera Institute.

In response to Senator Neal, Ms. Heiss will share materials on racial and ethnic demographics in jail populations.

**Perfecting Vehicle Liens**

Tom Underwood, with the Rotunda Group, introduced Gay Williams, President of the Kentucky Automobile Dealers Association. Ms. Williams introduced Ed and Karen Hyde, owners of Legacy Nissan.

Mr. Hyde explained that when a customer acquires a loan to purchase a vehicle, the dealer has to perfect a lien on that collateral to protect the bank, and the lien is filed in the county in which the customer resides. Sometimes the county in which the customer resides is not the county shown on their driver's license. In the event of bankruptcy, the trustee can deem the lien invalid because it was not filed in the correct county of residence, requiring the dealer to pay off the loan.

Chairman Petrie suggested changing the definition of a perfected lien to "recorded in the county in which the debtor/owner lies resident or in an adjoining county."

Gabrielle Summe, President of the Kenton County Clerks Association, testified that there are approximately 15 statutes regarding the perfection of liens. If clerks make a mistake in filing the lien, then they are responsible for paying off the loan.

Matthew Henderson, with the Kentucky Transportation Cabinet, said the Cabinet would like more legal certainty for all stakeholders regarding the status of the lien. Improvements in the database at Transportation may create new options. Centralized lien recording is the most expansive option. Mr. Henderson noted that the county of residence will not be included on federally-compliant REAL ID driver's licenses.

In response to Senator West, Ms. Summe said the Transportation Cabinet has an online search engine called OVIS, in which one can enter the VIN number to see if liens are filed and in which counties, but the lien statement itself is not available. Each county clerk determines whether to provide lien access online.

In response to Representative Cantrell, Ms. Summe said she participated in an unreported federal bankruptcy case, *In re Godsey,* in 2012. The decision interpreted Kentucky statutes as requiring underlying documents to be completely error free, otherwise a lien could not be perfected. The Kenton County Clerk's office has had to payoff car loans involved in bankruptcy cases due to misspelled information, the wrong county listed, and other errors.

Chairman Petrie added that if the legislature redefined what perfection is in Kentucky, the federal courts would utilize that definition. Until then, any imperfection will invalidate a lien under federal law.

**Disposition of Decedent's Body**

Senator Mills presented BR 201, and said he was also speaking on behalf of Representatives Miles and Wiederstein. After a murder in Henderson last year, the husband of the deceased was charged. While awaiting trial in the local jail, the husband was called by the coroner regarding the disposal his wife's remains. This was because under KRS 367.93117, unless another person is designated, the decedent's surviving spouse controls the disposition. BR 201 amends current law to exempt any survivors who have been arrested or charged with an offense which resulted in the death of the decedent.

In response to Senator Webb, Senator Mills explained that the bill does not require a conviction because of the length of time involved. If the person charged is later acquitted, the person could relocate the remains.

Chairman Westerfield said that a statement from Ms. Amye Bensenhaver, retired Assistant Attorney General and currently with the Kentucky Open Government Coalition, regarding Senator D. Carroll's bill from the 2019 Session on redacting personal information from public records is in members' folders for review.

Chairman Westerfield reminded members of the August 23, 2019 IJC meeting, and invited members to attend Fancy Farm the first weekend in August.

There being no further business, the meeting was adjourned at 11:47 am.

## INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

### Minutes of the 2nd Meeting of the 2019 Interim

July 9, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Tuesday, July 9, 2019, at 3:00 PM, in Room 154 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Jared Carpenter, Matt Castlen, C.B. Embry Jr., Robby Mills, Reginald Thomas, Johnny Ray Turner, Robin L. Webb, Whitney Westerfield, and Phillip Wheeler; Representatives John Blanton, Charles Booker, Randy Bridges, Myron Dossett, Jim DuPlessis, Daniel Elliott, Chris Fugate, Angie Hatton, Cluster Howard, Dennis Keene, Derek Lewis, Melinda Gibbons Prunty, Josie Raymond, Cherlynn Stevenson, and Rob Wiederstein.

Guests: Douglas Beard, Director, Division of Family Support; Jessica Hinkle, Branch Manager, Division of Family Support; Roger McCann, Executive Director, Community Action Kentucky; John Burke, Principal, Inez Power; DB Kazee, Principal and Counsel, Inez Power; and Lee Bazzle, Project Director, Inez Power.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, Silas Montgomery, and Rachel Hartley.

**Presentation and Public Hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application – Federal Fiscal Year 2020**

Douglas Beard provided an overview of the Department for Community Based Services (DCBS), which is the largest organizational unit within the Cabinet for Health and Family Services (CHFS) with a budget of over $1 billion. The Low Income Home Energy Assistance Program (LIHEAP) is funded by a federal block grant received by DCBS on behalf of Kentucky. LIHEAP provides assistance to low-income households that pay a high proportion of income for home energy. DCBS anticipates Kentucky's award will be $57.8 million for 2020. Less than 10 percent is used for administrative costs.

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

There are 23 community action agencies that together cover all Kentucky counties. Each agency allows local control, so specific needs can be met. CAK utilizes a continuous process for quality improvement, including review of policy and procedure, committee structure, data collection analysis, use of technology, and training and technical assistance.

In response to a question from Representative Gibbons Prunty, Mr. Beard stated lessees can benefit from LIHEAP.

In response to a question from Representative Blanton, Mr. Beard stated in order to avoid a reconnection fee, applicants should apply for LIHEAP before their electricity is disconnected.

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

**Inez Power**

Lee Bazzle stated Inez Power is an innovative energy from waste system utilizing a gasification process that was developed in Inez, Kentucky. The objective is to avoid landfill use by converting municipal solid waste into energy. Since 2000, coal production and options for long-term waste disposal are on a rapid decline.

In 1990, there were over 6,000 landfills and 144 waste-to-energy incinerators. In 2015, the number of landfills had decreased to 1,738, and the number of waste-to-energy incinerators decreased to 75. Transportation costs for waste have increased due to larger landfills and regional landfill locations.

In 2018, China imposed strict recycling import guidelines, and as a result the recycled exports from the United States have decreased. Many communities have ceased recycling programs until other outlets are identified.

Inez Power employs a patented gasification process to convert municipal solid waste to usable synthesis gas that can be turned into valuable commercial products. The gasification process generates more energy with less emissions than current incineration solutions. The process creates zero waste and 100 percent of the by-products have a beneficial reuse.

In response to a question from Senator Webb, Mr. Kazee stated the gasification process has no harmful environmental impact.

In response to a question from Representative Booker, Mr. Bazzle stated building a gasification facility near a landfill would decrease transportation costs.

In response to a question from Senator Thomas, Mr. Burke stated a new gasification facility would cost approximately $80 million.

In response to a question from Representative DuPlessis, Mr. Bazzle stated the gasification process is self-sustaining; however, it does use natural gas or diesel to begin the process.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Education Minutes of the 1st Meeting of the 2019 Interim

July 9, 2019

**Call to Order and Roll Call**

The first meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, July 9, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators C.B. Embry Jr., Stan Humphries, and Mike Wilson; Representatives Tina Bojanowski, Randy Bridges, Joseph M. Fischer, Kelly Flood, Jim Glenn, David Hale, Cluster Howard, Regina Huff, Bobby McCool, and Attica Scott.

Guests: Derrick K. Ramsey, Secretary, Education and Workforce Development Cabinet; Michael J. Nemes, Deputy Secretary, Education and Workforce Development Cabinet; Lana Gordon, Commissioner, Department of Workforce Investment; Dr. Wayne D. Lewis, Jr., Commissioner, Kentucky Department of Education; David Horseman, Associate Commissioner, Office of Career and Technical Education and Student Transition; Dr. Aaron Thompson, President, Council on Postsecondary Education; Dr. Jay Box, President, Kentucky Community and Technical College System.

LRC Staff: Chuck Truesdell, Jennifer Krieger, Seth Dawson, and Amie Elam.

**Education and Workforce Development Cabinet**

Representatives from the Education and Workforce Development Cabinet discussed career and technical education. The cabinet's presentation focused on high demand jobs and the Work Ready Initiative.

In response to a question from Representative Bojanowkski, Secretary Ramsey said that the Education and Workforce Development Cabinet plans to aggressively pursue the number of workers with disabilities that are being placed in jobs. Deputy Secretary Nemes said that his staff will send the exact percentage of workers with disabilities who are not placed to committee members.

In response to a question from Representative Scott, Deputy Secretary Nemes said that registered apprenticeship programs use a worker's competency to accelerate program completion.

In response to a question from Representative Howard, Secretary Ramsey said the cabinet will provide data to the committee regarding the wages of the 138,000 job openings in Kentucky. Representative Howard also requested information on the reasoning behind the number of openings.

In response to a question from Representative Fischer, Secretary Ramsey said that the Work Ready Scholarship program helps to provide tuition-free training to students. He said that the community and technical colleges will play a bigger role in reducing the amount of debt students accumulate before entering the workforce.

In response to a question from Representative Flood, Deputy Secretary Nemes said that the registered apprenticeship program is expanding into information technology, healthcare, and education.

In response to a question from Representative Tipton, Deputy Secretary Nemes said the cabinet will provide the committee with a more detailed breakdown of the Work Ready scholarship recipients.

**Kentucky Department of Education**

Representatives from the Kentucky Department of Education (KDE) discussed secondary career and technical education. KDE's presentation included information on career centers and funding needs.

In response to a question from Representative Scott, Mr. Horseman said teachers are recruited through postings and word of mouth. Commissioner Lewis said that the University of Louisville is a major partner for the New Teacher Institute. Mr. Horseman stated that professional development funding comes from Perkins funds and federal funds.

**Council on Postsecondary Education**

Representatives from the Council on Postsecondary Education (CPE) discussed workforce education and readiness. CPE's presentation included information on awarded credentials and workforce solutions.

In response to a question from Representative Flood, Dr. Box said CPE is working with hospitals to fill in funding gaps until the legislature is able to find more long-term solutions.

In response to a question from Representative Glenn, Dr. Box said that, to fill instructor roles, hospital nurses would need to be adjunct faculty. He said that many nurses would have shared appointments between a hospital and a clinical site.

In response to a question from Representative McCool, Dr. Box said pending legislation, if passed, will allow short-term federal Pell funding to be used for certificate programs. He said that short-term certificate programs allow individuals to get into the workforce sooner than a traditional program.

In response to a question from Representative Howard, Dr. Thompson said general education needs to be revamped to focus on employability skills. Dr. Box said the legislature needs to reinvest in higher education to prevent losing valuable faculty at Kentucky's colleges and universities.

There being no further business to come before the committee, the meeting was adjourned at 12:06 p.m.

## MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

### Minutes

July 8, 2019

**Call to Order and Roll Call**

The Medicaid Oversight and Advisory Committee meeting was held on Monday, July 8, 2019, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Jimmy

Higdon, and Morgan McGarvey; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, Steve Sheldon, and Lisa Willner.

Guests: Carol Steckel, Commissioner, Jessin Joseph, Pharmacy Director, Department for Medicaid Services, Cabinet for Health and Family Services; Don Kupper, President, Kentucky Pharmacists Association; Trevor Ray, PharmD, Independent Pharmacist, Owner, Midway Pharmacy; Betsy Johnson, President, Executive Director, Wayne Johnson, Vice President of Reimbursement, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living; Melanie Claypool, Director, Provider Network, Passport Health Plan; Shawna Dellecave, Director, Family Advocacy and the Arts, The Council on Development Disabilities; and Erin Davis, Executive Director, The Prince Care Group.

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

**Approval of Minutes**

A motion to approve the minutes of the June 3, 2019 meeting was made by Representative Sheldon, seconded by Senator Alvarado, and approved by voice vote.

**Independent Pharmacy Reimbursements**

Don Kupper, President, Kentucky Pharmacists Association (KPhA), stated that along with the American Pharmacy Services Corporation, the KPhA represents more than 6,000 pharmacists. The KPhA works to ensure fair, adequate, and transparent pharmacy reimbursements for Kentucky pharmacies. The passage and implementation of the 2018 SB 5 along with a two dollar dispensing fee increase were important steps for Kentucky pharmacies.

Trevor Ray, PharmD, Independent Pharmacist, Owner, Midway Pharmacy, stated that the National Average Drug Acquisition Cost (NADAC) is a federally developed survey of community pharmacies to determine the average acquisition cost for outpatient prescriptions drugs dispensed in Medicaid. The NADAC is a component in reimbursement methodology in the Kentucky Medicaid fee-for-service program. The Centers for Medicare and Medicaid Services (CMS) recommends a professional dispensing fee between $9 and $13 based on acquisition costs. Effective rate contracting is a pharmacy benefit manager (PBM) reimbursement methodology where pharmacists are guaranteed a certain reimbursement level on a group of drugs that are dispensed over a period of time. Spread pricing is the difference between the amount paid by the health insurance plan to the PBM and what the PBM reimburses pharmacies.

In June of 2017, pharmacies saw dramatic drops in reimbursements from the Medicaid Managed Care Organizations (MCOs). SB 5 originally would have required the Department for Medicaid Services (DMS) to directly administer pharmacy benefits, commonly referred to as a carve-out. The carve-out is the most transparent, fair, and predictable method for pharmacy reimbursement. The House amended SB 5 to remove the carve-out provisions and added transparency, data collection requirements, and other pharmacy reimbursement restrictions. SB 5 provisions include requiring the PBMs to submit pharmacy reimbursement data to DMS and giving DMS the authority to review and approve reimbursement rates over or under five percent 30 days before a change is said to take effect. SB 5 permits DMS to set, create, or approve the PBM established pharmacy reimbursement rates and to require the PBMs to comply with all state and federal laws.

The dispensing fee to pharmacies has increased by two dollars. Data analysis was conducted by DMS that resulted in transparency recommendations, methodology changes, and increased accountability for the MCOs and PBMs. DMS has acted to stop the reduced reimbursements on high-frequency dispensed drugs. Community pharmacies have developed a more positive working relationship with DMS. However, there are still MCO reimbursement issues with spread pricing, lack of transparency in pharmacy reimbursement data, lack of regulation implementing the SB 5 provisions, PBMs utilizing the effective rate contracting practices, specialty pharmacies, mail order pharmacies, national contracts, accountability, and fees. A Kentucky Medicaid data report concluded that $209 million was paid to PBMs by MCOs that was not paid to pharmacies over the past two years.

The use of effective rate contracting will continue to add to the disruption of transparency. Pharmacies are unsure of how much will be paid at the end of the year due to post adjudication fees, recoupments, effective rate adjustments, claims processing fees, and other fees charged by the PBMs to pharmacies that lower the overall pharmacy reimbursement. Independent pharmacies are seeing retail claims that follow the NADAC methodology with a small $.30 to $.50 cent dispense fee instead of the recommended $9 to $13. The PBMs frequently mandate that patients receive specialty drug prescriptions from specialty pharmacies that are owned by the PBM and likewise with mail-order prescriptions.

The PBMs are not direct contractors with the state and it can be difficult for regulators to hold the PBMs accountable for its actions. The large number of fees the PBMs charge pharmacies continue to be disruptive to the overall reimbursement rate. Six states, including Kentucky, reported more than $865 million healthcare dollars lost to spread pricing. Ohio has implemented pass-through contracts and is seeing increased reimbursements but still not enough to cover the cost of doing business. Data reported to the federal government does not include spread pricing. In July of 2017, West Virginia implemented a Medicaid carve-out plan. A West Virginia study showed a savings of $54 million. Prior to the carve-out, West Virginia paid $66.8 million in administrative expenses to the MCOs for pharmacy benefits. After the carve-out, West Virginia's administrative expenses dropped to $9.9 million.

The new request for proposal (RFP) for the MCOs' contracts contains positive improvements such as mandating pass-through contracts, prohibiting post-adjudication fees, including effective rate contracts, and an increased dispensing fee. Suggested additional improvements to ensure greater transparency would be to prohibit national contracts and to require each MCO to contract with each pharmacy without the bundling of other contracts. DMS could set the reimbursement rates for all MCO plans and mandate that the MCOs hire a transparent PBM or mandate that DMS directly administer pharmacy benefits. Independent pharmacies would also like to see an increase in the dispensing fees to adequately reimburse the pharmacies for the services provided. Pharmacies will continue to work with Medicaid to implement its full authority to set, create and approve reimbursement rates.

In response to questions and comments from Senator Higdon, Mr. Ray stated that DMS could mandate that the MCOs have an individual contract with pharmacies and not a bundled national contract. DMS is working with the independent pharmacies to figure out how to be proactive and gain more control of the PBMs in the proposed MCO contracts.

In response to questions and comments from Senator Alvarado, Mr. Ray stated that there are some collusion issues that could arise if pharmacy groups under different ownerships decided to share pricing information. Pharmacy services administration organizations (PSAOs) may have the ability to leverage and negotiate the PBMs' contracts. However, there is not much leverage because the PBMs are so much larger than any of the pharmacies, even the ones in a PSAO. Small and rural independent pharmacies do not have the ability to negotiate and leverage MCO contracts. At times the MCOs are not aware that the PBM has made changes until notice is given by the pharmacies. Pharmacies are not given a reason or explanation as to why a reimbursement has been changed. Once an appeal has been filed with the Department of Insurance by a pharmacy regarding a reimbursement, the reimbursement will be increased in many cases but it is an arduous process. Mr. Kupper stated that many patients in the eastern and rural part of the state would not have any other way to receive medications if not through Kentucky Medicaid.

In response to questions and comments from Representative Gibbons Prunty, Mr. Ray stated that independent pharmacies do not have a reasonable explanation as to why there are so many fees paid to the PBMs by the pharmacies. Many of the fees are added for participation in a network. At times the recoupment retroactive fees are not seen until six months after the prescription has been filled. The additional fees have gone up 45,000 percent in the last six years.

In response to questions and comments from Representative Sheldon, Mr. Ray stated that cash prescriptions are the only type of prescriptions where a total amount paid is known at the point of sell. Cash prescriptions are less than 10 percent of a pharmacy's business.

In response to questions and comments from Senator Carroll, Mr. Ray stated that the MCOs would know what the process is for dropping a medication from a formulary prescription list. Many times the provider will need to complete a long process to receive a prior authorization for the medication. Independent pharmacies will continue to work with DMS and legislators to receive fair payment for the products and services provided to patients.

In response to questions and comments from Senator Meredith, Mr. Ray stated that there are many hospitals as contract entities that are sponsors of the 340B drug pricing program with rural and chain pharmacies. There are also rural health clinics that are involved with the 340B drug pricing program.

**Implementation of 2018 RS Senate Bill 5**

Jessin Joseph, Pharmacy Director, Department for Medicaid Services, Cabinet for Health and Family Services, stated that DMS has been monitoring the pricing spread through May of 2019. As part of SB 5, all MCOs and PBMs are required to give the cumulative spread to DMS on the fifteenth of the month. At 12.92 percent, the spread has stayed the same as it was at the end of 2018. WellCare does not have a spread because the contractual model that they have is an administrative fee model or a pass-through model, which is based off a flat fee per member, per month or per claim depending on the contract. The other four MCOs' spread is what is charged to DMS compared to what is reimbursed to pharmacies. In other states, the spread averages around 8 to 15 percent.

Many changes were made to the new RFP for the MCOs' contracts that came from discussions with independent pharmacists and organizations to better understand what is happening at a ground level of business. DMS referenced the Kentucky statute specific to SB 5 in the RFP. The reporting requirements would be contractual. DMS would require a report of the spread. DMS modified the requirements to reinforce that the MCOs would have to align coverage, prior authorization criteria, and processes to those of DMS. The pharmacy rebate language was added to the RFP to ensure MCOs comply. DMS put in the RFP that the PBMs must use a pass-through model for payments to the pharmacies. DMS removed the MCOs' and PBMs' ability to charge hidden fees such as retroactive take-backs from the pharmacies, generic effectiveness rates, and the direct and indirect remuneration fees. DMS removed the previous barriers to receiving both the summary and claim-level detailed pharmacy reports from the MCOs and PBMs.

SB 5 requires any changes greater than five percent in the aggregate or at the point of sale to be reported to DMS. DMS has been developing the maximum allowable cost (MAC) rate change monitoring process. The MAC changes daily and a goal of DMS is to have an automated system. DMS uses an algorithm, along with NADAC, wholesale acquisition cost (WAC), and average wholesale price (AWP), to justify the reasoning behind the change in the rate of a prescription. DMS is working with vendors to monitor drug price changes at the national level for approvals and denials of the rate changes.

Carol Steckel, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that DMS is working on replicating the West Virginia study with Kentucky data. DMS hopes that by the fall of 2019, it will be able to share data regarding what the impact would be if a carve-out was done or not. DMS has control over the PBMs and will build that power in the new contracts. DMS held the MCOs accountable to obtain data regarding PBMs. DMS is meeting with representatives from the independent and chain pharmacies to hear about the current issues and concerns. DMS is working to create a level and fair playing field for the independent pharmacies.

Mr. Joseph stated that all MCOs are required to utilize a pharmacy and therapeutic (P&T) committee similar to the fee-for-service population. As new drugs come to the market, DMS asks the P&T committee to evaluate the drug. The recommendations from the P&T committee often align with what the MCOs have on the preferred drug list (PDL). For best efficiency, DMS would prefer a state mandated, single PDL that all MCOs would abide by to relieve the burdens from providers. DMS is working on uniform policies which will help the MCOs and PBMs to administer care. Commissioner Steckel stated that DMS is working hard to prevent unintended consequences. DMS may appear to be slow to respond but DMS is working closely with all pharmacists, MCOs, and PBMs while being mindful of the impact on the community pharmacists.

In response to questions and comments from Senator Meredith, Commissioner Steckel stated that the anticipated shortfall of $200 million did not occur within Kentucky Medicaid. Kentucky Medicaid is close to having a level budget because there has been a significant decrease in the number of eligibles. The primary provision of SB 5 was the five percent rate increase or decrease that has been implemented and is being monitored by DMS. DMS is seeing an evolution of the issues. The next issue to be addressed is the post adjudification adjustments. DMS will not be able to see results in that area until the new MCO contracts become effective on July 1, 2020.

In response to questions and comments from Senator Higdon, Commissioner Steckel stated that in regards to the MCOs contract update, DMS has disclosed all the information that is permitted. Questions regarding the RFP should be directed to the Cabinet of Finance and Administration. The new MCO contracts will begin on July 1, 2020.

In response to questions and comments from Senator Alvarado, Commissioner Steckel stated that the West Virginia program was very different from the Kentucky program. West Virginia had a carve-out, a single PDL, and the organization of its program was different. West Virginia has approximately half the number of people on Medicaid as Kentucky. DMS is replicating the West Virginia data with Kentucky Medicaid numbers so there is a more accurate comparison. DMS is pulling data in regards to expected profitability of the insurance companies and to verify if the money is returned to the MCOs as part of the medical loss ratio (MLR). In 2016, DMS started the MLR. It is DMS' intent to evaluate and adjust the MLR back to 2016 to reflect any errors in calculating the MLR given the PBMs' rates.

**Long-Term Care Facilities Status Report**

Betsy Johnson, President, Executive Director, Kentucky Association of Health Care Facilities (KAHCF), Kentucky Center for Assisted Living (KCAL), stated that KAHCF is the primary association that represents propriety and nonproprietary nursing facility providers, personal care homes, and assisted living communities across Kentucky. In regards to long-term care, only skilled nursing facilities receive Medicaid reimbursement. Assisted living providers and personal care providers do not receive Medicaid reimbursement for services provided. Nursing facility providers serve approximately 31,000 residents and account for 57,470 direct and indirect jobs statewide. There is at least one nursing facility in all of the 120 counties in Kentucky. Medicaid recipients make up almost 70 percent of residents in skilled nursing facilities in Kentucky. The impact of nursing facilities is shown in terms of jobs, income, economic activity, and tax revenue contributed to the state. Long-term care providers support an estimated $5.13 billion of the state's economic activity.

Wayne Johnson, Vice President of Reimbursement, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living, stated that nursing facility providers have faced unprecedented general and professional liability costs in the past due to predatory trial attorney practices and the litigation environment in Kentucky. Obtaining a qualified workforce has gotten more difficult for nursing facility providers. The current low unemployment rates, lack of workers, and the competition in other health care fields have driven up wages significantly. The nursing facility acuity rate in Kentucky remains high as providers care for the most fragile citizens. A 2018 AON Report highlights Kentucky as one of the worst states in need of medical malpractice reform and is lagging in tort reform.

Between 2010 and 2030 Kentucky's population over age 65 will increase by 72 percent and this will increase the demand for Certified Nursing Assistants (CNAs), Licensed Practical Nurse (LPNs), and Registered Nurses (RNs). Statewide RNs, LPNs, and nurse aide wage costs have steadily increased over the past 10 years. Although providers received a full inflationary increase this year, Medicaid increases have not kept pace with these and other staff increases. Nursing facility providers in Kentucky have higher levels of staff when compared to surrounding states. Kentucky continues to give the direct care needed to provide quality within the state. Since 2010, Medicaid and total patient acuity has risen dramatically.

Long-term care facilities are reimbursed by Kentucky's Medicaid Program through a price-based system implemented by DMS in 2000. The urban and rural prices are adjusted quarterly for acuity and annually by an inflationary adjustment determined by DMS. In theory, the price-based system allows DMS to accurately predict nursing facility costs. Although DMS will increase provider rates by the full inflationary increase effective July 1, 2019, providers have only been paid one-tenth of one percent inflation for the past five years. Due to the inflationary rates paid over the past five years, KAHCF proposed a provider tax increase to fund an inflationary increase. Last year's proposal would have increased taxes by $.93 per non-Medicare day, providing a net of $17.8 million in revenue to nursing facility providers. KAHCF, KCAL, and providers have tried to offer solutions to problems presented to the profession. The current cost and reimbursement environment in Kentucky is critical.

In response to questions and comments from Senator Meredith, Ms. Johnson stated that the federal law allows up to a six percent provider tax for skilled nursing facilities however there is a state statute that caps that provider tax at 4.2 percent. Skilled nursing facilities would pay the provider tax up front then be matched with federal dollars. There would not be any general fund dollars required for the skilled nursing facilities across Kentucky to see approximately $20 million in additional reimbursements. Mr. Johnson stated that as of last year, Kentucky has an 87 percent occupancy bed rate. Traditionally, Kentucky has a higher occupancy rate than other surrounding states.

In response to questions and comments from Senator Carroll, Ms. Johnson stated that in regards to quality, there has not been much improvement however, Kentucky is above the national average on short-term readmissions to hospitals. In regards to the survey environment, Kentucky nursing facilities are the most sited in the nation for immediate jeopardies and fined the most in civil money penalties. There is $33 million in a civil fund that is not being put back into the economy or resident care. The chair of KAHCF has created a data workforce committee to review data to understand why Kentucky is falling short with immediate jeopardies being issued against providers. If a skilled nursing facility is cited with an immediate jeopardy the nursing facility is no longer able to train nurse aides in the facility causing workforce issues. Mr. Johnson stated that in Kentucky the average fine is nearly $100,000 per facility. The national average is approximately $90,000.

In response to questions and comments from Representative Gooch, Ms. Johnson stated that the provider tax would be on the licensed skilled facility beds. Federal law requires that all like providers are taxed the same if participating in the provider tax system. The provider tax system would benefit the majority of the skilled nursing facilities in Kentucky. Mr. Johnson stated that the provider tax is based on non-Medicare days rather than a per bed tax. The provider tax change proposed to DMS is an incremental provider tax.

In response to questions and comments from Senator Alvarado, Ms. Johnson stated that nursing facilities staff turnover rate is a significant issue. The KAHCF has a human resources committee within the association to assist providers in dealing with workforce issues. CMS changed the criteria for the star rating system for nursing facilities. The health inspections provide the most weight on the star rating that deal with the requirements of participation set by CMS. If a nursing facility receives an immediate jeopardy or has a bad health survey, it takes approximately three years to get the star rating back up. Kentucky's average for short stay readmissions was better than the national average but in other areas, such as quality, Kentucky is in the middle of the national average. Kentucky is an out lier in the immediate jeopardy category. Kentucky is number two in the nation in regards to litigation.

In response to questions and comments from Senator McGarvey, Ms. Johnson stated that KAHCF hoped to collect data regarding the medical review panel legislation but it was not possible due to the Kentucky Supreme Court decision. KAHCF will be watching the implementation of the certificate of merit bill passed in the 2019 Regular Session. The KAHCF will work closely with the Kentucky Justice Association. The KAHCF will review what is working for other states in regards to tort reform. The KAHCF hopes to address the way that nursing facilities are targeted and the amount of records requests that are put on the facilities by trial attorneys. The KAHCF is not seeking to limit legitimate, rightful settlements or litigation due to egregious behavior of providers.

**Provider Tax for Long-Term Care**

Carol Steckel, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that DMS will work with the long-term care industry on increasing the provider tax to provide more of a federal match. DMS does want to review the data regarding providers that do not take Medicaid or providers that have a large private pay population and the impact of raising the provider tax in the private market. DMS wants to maximize resources for all providers.

In response to questions and comments from Senator Meredith, Commissioner Steckel stated that DMS would review using intergovernmental transfers for rural and county hospitals. DMS is in the process of getting approval for graduate medical education and indirect medical education programs with the University of Kentucky and the University of Louisville. The universities would benefit from the programs but would also provide funding to 14 other hospitals in Kentucky that also have graduate medical education programs. DMS is meeting once a week with the Kentucky Hospital Association (KHA) regarding the implementation of House Bill 320 which is a hospital assessment. DMS is looking at the market as a whole to maximize resources for all providers.

**Adjournment**

There being no further business, the meeting was adjourned at 3:04 PM.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the July Meeting

July 10, 2019

**Call to Order and Roll Call**

The July meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, July 10, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Perry B. Clark and Alice Forgy Kerr; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Kathryn Gabhart, Executive Branch Ethics Commission; Rosemary Holbrook, Alaina Myers, Personnel Cabinet; Todd Renner, Department of Revenue; Anthony Gray, Larry Hadley, Board of Pharmacy; Marc Manley, Kenneth Urlarge , Board of Licensure for Long Term Administrators; Cindy Castle, Carson Kerr, Board of Ophthalmic Dispensers; Nathan Goldman, Board of Nursing; Tony Cotto, Board of Podiatry; Rick Hessig, Board of Private Investigators; Mike Denney, Michelle Sullivan, Kentucky Lottery , Phillip Dietz, John Wood, Board of Emergency Medical Services; Steven Fields, Chris Garland, John Hast, Karen Waldrop, Department of Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Bert Gibbons, Michael Mullins, John Small, Department for Natural Resources; Patrick O'Connor, Leah Spears, Eric Stone, Department of Insurance; Ben Bellamy, Gwen Pinson, Karen Wilson, Public Service Commission; Heather Becker, H.E. Corder, Ronald Kirby, Board of Auctioneers; Erica Brakefield, Jan Bright, Julie Brooks, Jessica Davenport, Andy Waters, Department for Public Health; Stephanie Brammer-Barnes, Allen Brenzel, Kara Daniel, Department for Behavioral Health, Developmental and Intellectual Disabilities; Erika Bauford, Sarah Cooper, Bryan Hubbard, Department for Community Based Services; Curt Duff, James Morris, and David Sinclair.

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

The Administrative Regulation Review Subcommittee met on Wednesday, July 10, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Executive Branch Ethics Commission

9 KAR 1:010 & E. Statement of financial disclosure. Katie Gabhart, executive director, represented the commission.

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

9 KAR 1:040 & E. Executive agency lobbyist, employer or executive agency lobbyist, and real party in interest registration and expenditure statements; financial transactions and termination forms; and enforcement.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Sections 1, 2, and 4 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:180. Employee performance evaluation system. Rosemary Holbrook, general counsel, and Alaina Myers, deputy commissioner of human resources, represented the cabinet.

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

101 KAR 2:190. Employee performance management system.

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

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; General Administration

103 KAR 15:061. Repeal of 103 KAR 15:060. Todd Renner, executive director, Office of Tax Policy and Regulation, represented the department.

Income Tax; Individual

103 KAR 17:121. Repeal of 103 KAR 17:120.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:010. Schools approved by the board. Anthony Gray, general counsel, and Larry Hadley, executive director, represented the board.

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

201 KAR 2:090. Reference material and prescription equipment.

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

201 KAR 2:100. Security and control of drugs and prescriptions.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to change "personal supervision" to "supervision" for consistency with KRS 329.010(27). Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:116. Substitution of drugs, biologics and biosimilar products.

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

201 KAR 2:225. Special limited pharmacy permit – medical gas.

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

201 KAR 2:240. Special limited pharmacy permit – charitable.

In response to questions by Representative Marzian, Mr. Hadley stated that special limited pharmacy permits for charities included, for example, free clinics with a pharmacy component. The permit was renewed yearly, and charity events were held at various intervals during the year.

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

CONFORMITY paragraph and Sections 2 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:270. Expungement.

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

201 KAR 2:340. Special limited pharmacy permit – clinical practice.

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

Board of Licensure for Long-Term Care Administrators

201 KAR 6:030. Temporary permits. Marc Manley, board counsel, and Kenneth Urlage, board vice chair, 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 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:040. Renewal, reinstatement, and reactivation of license.

In response to a question by Representative Marzian, Mr. Manley stated that provisions regarding disciplinary action information sharing were precipitated by a specific incident in which a licensee who was the subject of a complaint left Kentucky and allowed Kentucky licensure to expire. When the licensee applied for licensure in another state, the board was unable to share pertinent information with that state because final action on the complaint or adjudication on the merits had not proceeded. Changes to this administrative regulation allowed a record of a complaint to be shared if another state requested the information. There was reciprocity in that Kentucky could also request similar information from other states.

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

Board of Ophthalmic Dispensers

201 KAR 13:040. Licensing. Cindy Castle, chair, and Carson Kerr, board counsel, represented the board.

In response to a question by Representative Marzian, Mr. Kerr stated that comments during the public comment period related primarily to the addition of the ABO-NCLE practical examination.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4, 5, and 8 to comply with the drafting requirements of KRS Chapter 13A; (2) to update the Application for Ophthalmic Dispenser or Apprentice License for consistency with this administrative regulation in referring to the required examinations; and (3) to amend Section 2 to clarify that an applicant shall: (a) pass both the ABO Basic Examination and the NCLE Basic Examination; and (b) pass either the NCSORB National Practical Examination, or both the ABO Practical and the NCLE practical examination. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 13:050. Apprentices.

201 KAR 13:055. Continuing education requirements.

In response to a question by Representative Marzian, Mr. Kerr stated that continuing education changes primarily included clarifying the definition for "in-person contact hours."

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 6 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 13:060. Military service; reciprocity; endorsement.

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

Board of Nursing

201 KAR 20:370. Applications for licensure. Nathan Goldman, general counsel, represented the board.

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.

201 KAR 20:506. Nurse licensure compact.

Board of Podiatry

201 KAR 25:090. Prescribing and dispensing controlled substances. Tony Cotto, executive advisor, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to: (a) add an exception for admittance to a long-term care facility licensed under KRS Chapter 216B; and (b) delete the reference to KRS 218A.205. Without objection, and with agreement of the agency, the amendments were approved.

Board of Private Investigators

201 KAR 41:020. Application for licensure. Rick Hessig, chair, and Marc Manley, board counsel, represented the board.

201 KAR 41:030. Examination.

A motion was made and seconded to approve the following amendment: to amend Section 1 to delete language, "at least twice annually," which was duplicative of the language established in KRS 329A.025(2)(c). Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 41:040. Fees.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 6, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 41:060. Renewal and reinstatement procedures.

201 KAR 41:065. Inactive status.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) require the written request to the board for inactive licensure status to be prior to the time of renewal; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 41:070. Continuing professional education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 through 7, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 10 to: (a) clarify waiver provisions; and (b) include undue hardship or similar extenuating circumstances that precludes the licensee's completion of the requirements. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 41:080. Complaint procedure.

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

KENTUCKY LOTTERY CORPORATION

202 KAR 3:010. Code of ethics. Mike Denney, assistant general counsel, and Michele Sullivan, vice president of human resources, represented the corporation.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:560. Ground vehicle staff. Philip Dietz, chair; Michael Poynter, executive director; and John Wood, attorney, represented the board.

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

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

301 KAR 2:221. Waterfowl seasons and limits. Steven Fields, staff attorney; Chris Garland, acting director, Wildlife Division; John Hast, bear program coordinator; and Karen Waldrop, deputy commissioner, represented the department.

301 KAR 2:222. Waterfowl hunting requirements on public land.

301 KAR 2:300. Black bear seasons and requirements.

In response to a question by Representative Marzian, Ms. Waldrop stated that the male quota had been removed for bears. Reporting for the purposes of quota tracking was conducted via call-in after 9 p.m. This administrative regulation also adjusted bear zones.

In response to questions by Co-Chair Hale, Ms. Waldrop stated that the quota tracking system was updated daily. Mr. Hast stated that Kentucky was nearly reaching the quotas. Ms. Waldrop stated that the department expected bear harvesting to increase.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Division of Regulation and Inspection: Amusement Rides

302 KAR 16:010. Business identification number required. Clint Quarles, attorney, represented the division.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to reduce from $600 to $500, the re-inspection fee for wooden roller coasters. Without objection, and with the agreement of the agency, the amendments were approved.

302 KAR 16:040. Correction of safety violations and right to re-inspection.

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

302 KAR 16:070. Reports of injuries involving amusement rides and amusement attractions.

302 KAR 16:091. Rides and attractions not included in the definition of amusement ride or attraction.

302 KAR 16:101. Operate amusement ride or device defined.

302 KAR 16:111. Violations, civil penalties, revocations, and suspensions of business identification number.

In response to a question by Co-Chair Hale, Mr. Quarles stated that changing from eighteen (18) to sixteen (16), the operator age threshold that would constitute a violation, was for consistency with commensurate statutory changes.

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

302 KAR 16:121. Inflatable rides or attractions.

In response to questions by Co-Chair Hale, Mr. Quarles stated that private inflatable rides or attractions, such as those for school functions, were regulated and inspected at least once unless a problem occurred, which would result in re-inspection. The device was inflated and anchored to the ground for the purposes of inspection. The serial numbers of the inflatables were recorded, and the blower units received the inspection seal.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 3 through 5 to comply with the drafting requirements of KRS Chapter 13A.

302 KAR 16:131. Maintenance and repair of amusement ride or attractions.

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

Regulation and Inspection; Tobacco Sales

302 KAR 78:021. Repeal of 302 KAR 78:020.

Animal Control Officers

302 KAR 101:010. Training requirements for Kentucky Animal Control Officers.

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

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

805 KAR 3:110. Employees' personal protection. Bert Gibbons, assistant director; Michael Mullins, regulation coordinator; and John Small, commissioner, represented the division.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Insurance Fraud

806 KAR 47:010. Fraud prevention. Patrick O'Connor, deputy commissioner; Leah Spears, executive advisor; and Eric Stone, investigator supervisor, represented the department.

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

806 KAR 47:021. Repeal of 806 KAR 47:020 and 806 KAR 47:030.

ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities

807 KAR 005:056. Fuel adjustment clause. Ben Bellamy, staff attorney; Gwen Pinson, executive director; and Karen Wilson, executive advisor, represented the commission. David Sinclair, vice president, Energy Supply and Analysis, represented LG&E and KU Energy in opposition to this administrative regulation.

In response to questions by Co-Chair West, Ms. Pinson stated that the Public Service Commission (PSC) was in the process of reviewing all of its administrative regulations as part of the Red Tape Reduction Initiative. This administrative regulation was initially promulgated in 1982 and was a priority for amendment as a result of House Resolution 144 from the 2019 Regular Session of the General Assembly, which urged PSC to consider all costs, including fossil fuel-related economic impacts for the purposes of analyzing coal purchases. Among other changes, the major shift was to Section 3(5), which was revised to exempt coal severance taxes in determining the reasonableness of fuel costs. This administrative regulation also made hearings discretionary, rather than mandatory, in order to limit costs from unnecessary hearings. If the attorney general wished to have a hearing or if the public requested a hearing or a hearing was in the public interest, the hearing would be held. Additionally, the public was always able to submit comments pertaining to an ongoing PSC case.

In response to a question by Co-Chair Hale, Mr. Sinclair stated that nonprofit regulated utilities were only authorized to recover actual fuel costs. In 2018, LG&E and KU Energy purchased approximately sixty (60) percent of coal used to generate electricity from Kentucky coal producers. The proposed revision to the fuel adjustment clause would change how PSC reviewed fuel procurement decisions from being based on the actual full price paid to the price less any coal severance tax. Customers would still pay the full cost of fuel, including coal severance tax; therefore, the proposed administrative regulation might cause higher consumer costs. The extra cost amount was uncertain; however, estimates could be between ten (10) and twenty (20) million dollars annually, depending on how coal bidding strategies changed. The proposed administrative regulation could be challenged on constitutional grounds, which could result in lengthy and costly litigation, further increasing costs for consumers. The potential benefits to coal producers, employees, and communities were not quantified and might be greater or less than increased costs to consumers.

In response to questions by Co-Chair Hale, Ms. Pinson stated that the cost impact was expected to be minimal. Estimates from Mr. Sinclair were calculated based on an unlikely, worst-case scenario. One (1) commenter during the public comment period stated that the economic benefits of the possible increase outweighed the risks. There could be a consumer cost increase, but it was expected to be very minimal, such as seventy-five (75) cents per year. Numerous utilities submitted public comments during the public comment period.

In response to questions by Co-Chair West, Ms. Pinson stated that worst-case estimates were based on an overall four and five tenths (4.5) percent coal cost increase. PSC did not know if out-of-state coal providers were already "padding" prices. It seemed unlikely that Kentucky coal producers would "pad" prices because it would be in their interests to submit competitive bids. While PSC had not done an independent economic analysis, the Economic Development Cabinet had data regarding job and wage impacts. PSC hoped that any increased costs would be offset by rate-payer base increases resulting from economic growth.

Co-Chairs West and Hale stated that this was a very important administrative regulation. Cost containment for consumers was important, as was economic growth.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to clarify that standards for suspension of rate schedules shall be based on the severity and history of nonconformity; and (3) to amend Section 3 to: (a) clarify that standards for suspension of fuel adjustment clauses shall be based on the severity and history of unreasonable fuel charges; and (b) delete language that could have been interpreted as limiting the scope of coal severance taxes. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Real Estate Authority: Kentucky Board of Auctioneers

831 KAR 1:010. Licensing fees and applications. Heather Becker, general counsel; H. E. Corder, executive director; and Ron Kirby, board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 4, 5, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 8 to incorporate by reference the License Renewal Form. Without objection, and with agreement of the agency, the amendments were approved.

831 KAR 1:020. Standards of conduct and complaints.

831 KAR 1:030. Education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to clarify that proof of a high school diploma or equivalent is required, unless waived pursuant to KRS 330.060(1)(b); and (2) to amend Sections 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Maternal and Child Health

902 KAR 4:030. Newborn screening program. Jan Bright, branch manager; Julie Brooks, regulation coordinator; and Andrew Waters, assistant division director, represented the department.

902 KAR 4:035. Cost reimbursement for specialized food products.

State and Local Confinement Facilities

902 KAR 9:010. Environmental health. Erica Brakefield, section supervisor; Jessica Davenport, program evaluator; and Julie Brooks, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add the definition for "tempered water"; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 12, 14, 16, and 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Food and Cosmetics

902 KAR 45:120. Inspection and permit fees for recreational vehicle communities, youth camps, and private water supplies. Erica Brakefield, section supervisor; Jessica Davenport, program evaluator; and Julie Brooks, regulation coordinator, represented the department.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Behavioral Health: Substance Abuse

908 KAR 1:341. Repeal of 908 KAR 001:340. Stephanie Brammer – Barnes, regulation coordinator; Dr. Allen Brenzel, medical director; and Kara Daniel, division director, represented the division.

In response to a question by Co-Chair West, Ms. Daniel stated that the changes represented in these administrative regulations stemmed from the cabinet's efforts to implement House Bill 124 from the 2018 Regular Session of the General Assembly, which required the cabinet to perform a comprehensive review of standards for substance abuse treatment facilities statewide. The department worked with Medicaid, the cabinet's Office of Inspector General, and the Office of Drug Control Policy to develop these revised standards. These changes updated requirements, streamlined licensure, incorporated national standards, and made revisions for the purposes of improving quality of patient care.

908 KAR 1:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to make conforming changes stemming from a deletion made in the Amended After Comments version that removed differing survey requirements between accredited and non-accredited AODEs; and (2) to amend

Section 18 to clarify a provision concerning the biopsychosocial assessment. Without objection, and with agreement of the agency, the amendments were approved.

908 KAR 1:372. Licensure of residential alcohol and other drug treatment entities.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to state that the food requirements apply only to a facility that prepares meals on-site for a client and do not apply to a facility where clients prepare their own meals on-site or are otherwise responsible for their meals; (2) to amend Section 5 to specify that a residential transitional living program shall ensure that each client participates for a minimum of five (5) hours per week in counseling and planned clinical program activities, with counseling comprising at least two (2) hours; and (3) to amend Section 8 to: (a) require all residential AODE programs to have at least one (1) shower or tub per fifteen (15) clients; and (b) to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

Substance Abuse

908 KAR 1:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 7 to establish waiver criteria; and (3) to amend Section 4 to clarify that if clients prepare their own meals on-site or are otherwise responsible for their meals, a food service permit shall not be required. Without objection, and with agreement of the agency, the amendments were approved.

Department for Income Support: Division of Child Support Enforcement: Family Support

921 KAR 1:380. Child support enforcement program application and intergovernmental process. Bryan Hubbard, commissioner, represented the division.

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

Department for Community Based Services: Child Welfare

922 KAR 1:510. Authorization for disclosure of protection and permanency records. Erika Bauford, section supervisor, and Sarah Cooper, staff assistant, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 4 to revise the authorization form to: (1) include the agency's mailing address; and (2) require form completion and submission within ten (10) days. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the July 10, 2019, subcommittee agenda:

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:120. Additional and emergency precinct officers.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; General Administration

103 KAR 15:050. Filing dates and extensions.

Office of Financial Management: State Investment Commission

200 KAR 14:201. Repeal of 200 KAR 14:200.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

201 KAR 2:165. Transfer of prescription information.

201 KAR 2:310. Compounding for a veterinarian's office or institutional administration for veterinary use.

Board of Dentistry

201 KAR 8:581. Charity dental practices.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

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

401 KAR 5:010. Operation of wastewater systems by certified operators.

Water Quality Certification

401 KAR 8:030. Water treatment plant and water distribution system classification and staffing.

401 KAR 8:050. Drinking water program fees.

Certified Operators

401 KAR 11:001. Definitions for 401 KAR Chapter 11.

401 KAR 11:030. Wastewater treatment and collection system operators; classification and qualifications.

401 KAR 11:040. Water treatment and distribution system operators; classification and qualifications.

401 KAR 11:050. Operator and training provider certification.

401 KAR 11:060. Operator and training provider certification fees.

Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

405 KAR 10:001. Definitions for 405 KAR Chapter 10.

405 KAR 10:015. General bonding provisions.

JUSTICE AND PUBLIC SAFETY CABINET: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 9:010, 500 KAR 9:020, 500 KAR 9:030, and 500 KAR 9:040.

Motorcycle Safety Education Commission: Motorcycle Safety

500 KAR 15:010 & E. Motorcycle safety education program.

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

601 KAR 2:030 & E. Ignition interlock.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:001. Prelicensing courses of study.

806 KAR 9:020. False or deceptive names, titles, prohibited.

806 KAR 9:030. Adjuster licensing restrictions.

Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:061. Repeal of 806 KAR 9:060.

806 KAR 9:070. Examinations.

806 KAR 9:110. Agent's rights after contract termination.

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

806 KAR 9:200. Volume of insurance agent exchange of business.

806 KAR 9:310. Life settlement licenses.

806 KAR 9:321. Repeal of 806 KAR 9:320.

806 KAR 9:341. Repeal of 806 KAR 9:341.

806 KAR 9:350. Recognition of financial planning certification and designation for receipt of fees and commissions.

Life Insurance and Annuity Contracts

806 KAR 15:081. Repeal of 806 KAR 15:080.

LABOR CABINET: Department of Financial Institutions: Administration

808 KAR 1:180. Use of special restricted funds.

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

902 KAR 2:070. Rabies control.

Public Accommodations

902 KAR 7:010. Hotel and motel code.

Division of Public Health Protection and Safety: Mobile Homes and Recreational Vehicles Parks; Facilities Standards

902 KAR 15:010. Manufactured and mobile homes.

Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:036. Operation and services; personal care homes.

Food and Cosmetics

902 KAR 45:065. Tattooing.

Food and Cosmetics

902 KAR 45:070. Body piercing and ear piercing.

902 KAR 45:075. Tanning facilities.

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

907 KAR 1:604 & E. Recipient cost-sharing.

Department for Aging and Independent Living: Division of Guardianship: Guardianship

910 KAR 2:020. Referral process for adult guardianship.

Department for Aging and Independent Living: Division of Guardianship: Guardianship

910 KAR 2:040. Service provisions for adult guardianship.

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

922 KAR 1:310 & E. Standards for child-placing agencies.

Child Welfare

922 KAR 1:350 & E. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers.

922 KAR 1:470. Central registry.

922 KAR 1:495 & E. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

The subcommittee adjourned at 11:10 a.m. The date, time, and room for the August subcommittee are pending.

## ALZHEIMER'S AND DEMENTIA WORKFORCE ASSESSMENT TASK FORCE

**Minutes of the 1st Meeting of the 2019 Interim**

July 2, 2019

**Call to Order and Roll Call**

The 1st meeting of the Alzheimer's and Dementia Workforce Assessment Task Force was held on Tuesday, July 2, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Deanna Frazier, Co-Chair; Senators Stephen Meredith and Reginald Thomas; Representative Lisa Willner; Bill Cooper, Buddy Hoskinson, Mackenzie Longoria, Devon McFadden, Andrea Renfrow, Mary Romelfanger, and Phillip Travis.

Guest: Steven Davis, Inspector General.

LRC Staff: Dana Simmons and Jennifer Luttrell.

**Introduction of Members**

Senator Mills asked each member to introduce themselves and give their agency name, area of expertise, and issues that may pertain to the charge of the task force. Each member gave a brief overview of their backgrounds and how they could be of service to this task force.

**Charge and Duties of the Task Force**

The Legislative Research Commission authorized the Alzheimer's and Dementia Task Force by memorandum and set forth the charge and duties. The charge is to study health care workforce needs and the long-term care services and supports infrastructure, including long-term care facilities used to provide care to individuals diagnosed with Alzheimer's or dementia. The task must submit findings and strategies to LRC by November 29, 2019.

The duties include assessing the health care workforce to identify current or anticipated workforce shortages and possible steps to ameliorate any shortages, evaluating the effectiveness of current initiatives to develop, recruit, and retain highly skilled direct care workers, geriatricians, gerontologists, neurologists, and other professionals involved in providing care and treatment to individuals diagnosed with Alzheimer's or dementia, evaluating the current state of long-term care services and supports infrastructure and providing recommendations for improvement, and examining existing workforce training initiatives and making recommendations to improve career mobility and retention among health care workers, including continuing education requirements and the current credentialing process.

**State of Long-Term Care Services and Supports Infrastructure**

Mackenzie Longoria, Director of Public Policy, Greater Kentucky and Southern Indiana Chapter of the Alzheimer's Association, discussed long-term care services and the supports infrastructure.

In 2007, SJR 6 directed the Office on Alzheimer's Disease and Related Disorders (AD Office) and the Alzheimer's Disease and Related Disorders Advisory Council (AD Council) to assess the current and future impact of Alzheimer's disease on Kentuckians and state systems, programs, and services. This assessment was updated in 2017 with new and revised recommendations.

Several of the recommendations address the AD Office, which as of June 2019, exists in name only and is not funded or staffed.

The association is realistic about costs and is willing to work with the Department for Aging and Independent Living (DAIL) to serve as the de facto AD Office.

The first recommendation was to:

Increase and improve support for family caregivers by requesting an increase in the Alzheimer's Program Development and Implementation line item in the state budget but no increases have occurred.

Utilize the AD council and stakeholder community to revise the current definition, eligibility, and service requirements for the provision of respite care. Kentucky provides respite care through Title III-E. Ad Districts (AAAs) can provide respite care, but funding limitations and or prioritization play a big part in funding allocation. Most caregivers are unaware of the availability of respite care.

Maintain a system of care coordinators and benefit counselors in each of the 15 AAAs. There is no system in place.

Develop incentives beyond tax incentives for caregivers. There is no tax incentive for caregivers and no measures beyond tax incentives.

Support legislation for a caregiver tax credit for people who provide in-home care for dependent relatives who have little to no income and have been diagnosed with Alzheimer's or related dementia. Although attempted, no such legislation has been passed.

Develop a demonstration to test the feasibility and cost-effectiveness of adult day care clients receiving services in other long-term care settings traditionally considered institutional in order to expand access to accommodate anticipated growth in demand. Many adult day services, especially social models, have been cut due to funding issues as federal funding moved to the medical model. There has been no demonstration or pilot program of traditionally institutional services for the purpose of expanding Home- and Community-Based Services (HCBS) care.

The second recommendation was to monitor a statewide data collection system by collecting and monitoring, at minimum, the following:

The prevalence of dementia-related diseases across the commonwealth. In 2012, 2015, and 2016, the association applied to be included in the Centers for Disease Control and Prevention's (CDC) Behavioral Risk Factor Surveillance Survey (BRFSS). In 2016, it was funded in part with help from DAIL and currently represents the most up-to-date statistics. BRFSS cognitive model collects demographic, geographic, and socioeconomic data related to cognitive decline. There is also a caregiver module which focuses on collecting data regarding caregivers' personal health and greatest care needs. This is the most important piece of data that can be collected to ensure accurate information about individuals in Kentucky experiencing cognitive decline and their caregivers. However, the association was unable to be included in the upcoming 2019 BRFSS module due to lack of funding. The cost for including the six necessary questions is $30,000, which now rests solely on the association.

The prevalence of dementia-related diseases by county. BRFSS, nor any other data system, captures this information.

The prevalence of early-onset dementia and related diseases across the commonwealth. BRFSS, nor any other data system, captures this information.

The prevalence of inpatient geriatric psychiatry beds. BRFSS, nor any other data system, captures this information.

The availability of geriatric services and specialists. Kentucky is behind in the availability of such services and specialists. The American Geriatrics Society estimates that an additional 23,750 geriatricians should be trained by 2030 in order to meet the demands of an aging U.S. population, however, as of 2017, there are currently only 6,910 certified geriatricians practicing nationwide, and it is estimated that the United States has approximately half the number of certified geriatricians that it currently needs. Researchers also estimate that the United States will need 19 percent more neurologists by 2025 in order to meet the increasing demand. In 2017 Kentucky was identified as one of the twenty states that were deemed "neurology deserts" due to a projected shortage of neurologists, combined with an expected rapid rise in Alzheimer's disease and other dementias.

The availability of assessment services for Alzheimer's and related dementias. Assessment services for Alzheimer's and related dementias depend largely on an individual's Point Of Care (POC) and/or information available at their local health department or AAA. While 82 percent of seniors say it is important to have their thinking and memory checked, only 16 percent say they receive regular cognitive assessments. There is a Medicare billing code for care planning but since its implementation in 2017, less than one percent of doctors utilize the code, partly because of the low reimbursement rate. Congressman Guthrie has introduced a second version of this code called I-HOPE at the federal level that providers can use for care planning. Cognitive assessment is covered by the Medicare annual wellness visit, but most seniors are unaware of the benefit and therefore do not ask for it. Kentucky does collect information through Software Asset Management (SAM), a statewide data system on services provided by AAAs, but currently lists that information pertaining to Alzheimer's and dementia under a "Disability" title.

The number and location (county) of Kentuckians who are currently providing care in their home to a family member. The association does not collect data related to the number and location of Kentuckians providing care to a family member in their home. BRFSS collects data related to the percentage of adults 18 years or older who self-report as being a caregiver to a person with a health problem or disability; relationship between the caregiver and the care recipient; health problem or disability of the care recipient; if the caregiver assists with household tasks; if the caregiver assists with personal tasks; average hours of caregiving provided per week; length of time as a caregiver; type of assistance most needed by the caregiver that they do not receive (question included for years 2015–2018); if the care recipient has Alzheimer's disease or another dementia in addition to another health problem or disability (question added in 2019); and the percentage of adults aged 18 years or older who are not caregivers who expect to be caregivers in the next two years.

The third recommendation was to establish state protocol on appropriate interface and choices for individuals with Alzheimer's and their families by requiring the AD Council to utilize a protocol detailing how to interface with individuals with Alzheimer's and related dementias and their families. The protocol should include appropriate placement care options based on the stages of Alzheimer's and related dementias. DAIL provides resources for case managers and serves as a resource for family members. Department for Medicaid Servies (DMS) through the Division of Community Alternatives (DCA) has a manual for HCBS providers and case managers and is working on improving the ways in which they can be a resource for families, through the 1915(c) waiver redesign. The Alzheimer's Association is working on a request for an Alzheimer's specific 1915c waiver. The association has given public comments with recommendations as it relates to case managers and care planning. However, there is no singular official "handbook" or "protocol" for interfacing with individuals with Alzheimer's and their families.

The fourth recommendation was to explore options to increase insurance coverage for individuals with Alzheimer's and related dementias by:

Supporting and protecting Medicaid eligibility and Alzheimer's specific waivers for individuals with early-onset Alzheimer's disease. Kentucky uses the federal Medicaid financial eligibility requirements for HCBS and sets the functional eligibility requirements as: (1) are elderly or have a physical disability and (2) meet the Level of Care defined by KAR 1:022 and would be admitted to a nursing facility if no have waiver services. This has the potential to prevent individuals with early onset to qualify for HCBS services.

Advocating for integrated systems of healthcare and support that support mental health parity and are effective for individuals with Alzheimer's disease and their families (e.g.: disease management strategies, practice guidelines, HCBS care, hospice care, and chronic care management). Efforts to integrate mental health care are slowly being addressed within hospital systems, but disparity between levels of care causes disruptions and confusion with disease management strategies and care planning.

The fifth recommendation was to enhance state policies and procedures to provide additional support to ensure the health, safety, and welfare of individuals with Alzheimer's disease and related dementia by:

Utilizing the AD Council to evaluate state regulations on home care, adult day, and home health, to assure they are "dementia friendly." When time provides, the council attempts to evaluate said regulations, but are limited by time and funding constraints.

Monitoring and giving recommendations that address persons with dementia ability to remain in their current living environment despite a change in their condition (i.e.: challenging behaviors or other disease symptoms) that under existing regulations might otherwise promote their move to a different level of care. This protocol should ensure that the provider can adequately demonstrate that the person's care needs can be safely and effectively met without the disruption of moving. The association is actively working on this issue through participation in the 1915(c) waiver redesign and with recommendations for training and case management for individuals with Alzheimer's or related dementias utilizing HCBS.

Supporting a pilot demonstration project to address the problem of facility discharges of residents exhibiting challenging behaviors. There is no such pilot program in place. Currently, there is a 22 percent hospital readmission rate for dementia patients.

Reviewing the current Kentucky Medicaid programs to ensure "dementia friendly" approaches and policies, and identify challenges to admission and eligibility requirements. The association is actively working on this issue through participation in the 1915(c) waiver redesign and with recommendations for training and case management for individuals with Alzheimer's or related dementias utilizing HCBS, as well as the financial and functional eligibility requirements.

Supporting and encouraging the evolution and application of best practice for persons with dementia living in personal care homes and assisted living facilities. With Personal Care Homes (PCs) being licensed by the Office of the Inspector General (OIG) and Assisted Living Facilities (ASLs) being certified by DAIL, there is a disparity in the education and training requirements, as well as policies, rules and or regulations regarding best practices for individuals with Alzheimer's or related dementias in those settings.

The goals and recommendations of the state plan to address Alzheimer's align with the association's overall policy goals and priorities to increase public awareness, build a dementia-capable workforce, increase access to home- and community-based services, and enhance the quality of care in residential settings.

The Kentucky statistics include the number of Kentuckians living with Alzheimer's or related dementia, from 73,000 to 86,000 by 2025. This is an increase of nearly 17 percent over the next six years. Alzheimer's and related dementias were responsible for 1,765 deaths in 2017. The number of caregivers in Kentucky - 273,000 → 300,000 by 2025 with 311 million total hours of unpaid care is valued at $3.9 million with $197 million in higher healthcare costs for caregivers. Costs associated with caring for the disease include $23,703/per capita Medicare spending, $778 million in Medicaid costs for people with dementia, 20.6 percent increase expected from 2019 to 2025, and 22.2 percent hospital readmission rate for dementia patients. The 2016 BRFSS data says that in Kentucky, one in eight of those aged 45 and over report they are experiencing confusion or memory loss that is happening more often or is getting worse ("subjective cognitive decline"); 55.9 percent say it has created "functional difficulties;" more than half have not discussed these problems with a healthcare professional; 90.4 percent of those reporting cognitive decline are also managing another chronic condition (i.e.: diabetes, heart disease, COPD, etc.); nearly one in four Kentuckians are caregivers who provide at least 20 hours per week of unpaid care.

In Kentucky, the two entities that are responsible for licensure and/or certification of long-term care (LTC) facilities through the Cabinet for Health and Family Services (CHFS) are DAIL, which includes Home-And-Community-Based-Services (HCBS) with Adult Day and Respite Care also under CHFS/DAIL, by way of DMS and the DCA and the OIG, Division of Healthcare. Assisted Living Facilities (ASL) are certified by DAIL. Personal Care (PC) Homes and Nursing Homes/Facilities (NF) are licensed by OIG.

HCB services are authorized through the 1915(c) Medicaid Waiver Program: "A Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c)." This waiver program provides Medicaid-paid services and supports to the elderly or to adults and children with physical disabilities to help them to live at home rather than in an institutional setting. Services include:

Adult Day Health Care - A place for persons 21 and older to receive skilled nursing care, routine personal and healthcare needs, meals, and to be part of daily activities.

Attendant Care - Help with tasks a person cannot do on his or her own due to being aged or because of a physical disability. This service includes help with bathing, dressing, grooming, light housework, laundry, and meal planning and preparation

Environmental and Minor Home Adaptation - Changes to a person's home that ensure their health, safety, and welfare, increase independence and allow them to continue to live at home.

Home Delivered Meals.

Non-Specialized and Specialized Respite Care - Provides a short term break for a person's primary, unpaid caregiver.

A person may qualify for HCBS / 1915(c) if they are elderly or have a physical disability; meet nursing facility level of care as defined in Kentucky Administrative Regulation 907 KAR 1:022 and would be admitted to a nursing facility if the person did not have waiver services; and meet the federal financial qualifications for Medicaid. KRS 205.520(3) authorizes CHFS to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. HCBS compliance with federal law is monitored by DAIL, via CHFS, DMS, and DCA. HCBS includes Alzheimer's respite care and Alzheimer's/Adult Day Care.

Assisted Living Facilities (ASLs) must be certified initially and annually by DAIL and are considered private business entities (910 KAR 1:240). As such, no public funding is available for services provided in this setting (i.e.: no Medicaid reimbursement). Clients must be ambulatory or mobile non-ambulatory and not a danger to self or others. ASLs in Kentucky means a number of living units on the same site, operated as one business entity and certified to provide services for five or more adults. Services that can be performed in ASLs include Assistance with Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) such as housekeeping, scheduled daily activities, and assistance with self-administration of medication as directed in KRS 194A.705(1)(d): "Assistance with self-administration of medication in accordance with (ibid), which, for medications not preset in a medication organizer or single dose unit container as described in KRS 194A.700(3)(a), may include but shall not exceed the following staff actions if the client requests assistance:

> providing the client with a medication reminder;
>
> reading the medication label to the client and confirming that the medication is being taken by the client for whom it is prescribed and;
>
> opening the medication container or dosage package, but not handling or removing the medication.

For certification, an ASL must complete the DAIL application; provide a copy of a blank lease agreement; a copy of written material used to market the proposed ASL, including material that markets offered special programming (ex: Alzheimer's and dementia care), staffing or training; a floor plan; and a nonrefundable application fee of $40 per unit (plus additional fees depending on the size of the facility). The certification process is annual and absent a formal complaint against the facility, the state does not conduct any oversight and monitoring of the quality of care in the facility.

Personal Care Homes (PCs) are licensed as LTC facilities by the OIG. Services in a PC may be reimbursed from the state general fund but there is no reimbursement for Medicaid services. Clients may be ambulatory or mobile non-ambulatory and whose care needs do not exceed the PC's capability (i.e.: residents must be able to manage most of their ADLs). PCs in Kentucky means an establishment located in a permanent building, which has resident beds. Services that can be performed in PCs include continuous supervision; basic health/health-related services (supervision of self-administration of medications, storage and control of medications, when necessary); personal care services; and social/recreational activities. For complete details of the licensure process, see 902 KAR 20:008.

Nursing Facilities (NFs) are licensed by OIG and are legally responsible for the facility and compliance with all federal, state, and local laws and regulations pertaining to the operation of the facility. NFs are often the final stop on the continuum of care. NFs "shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life" (902 KAR 20:300). Before admission to an NF, the facility "shall make a comprehensive assessment of the resident's needs, which describes the resident's capacity to perform daily life functions and significant impairments in functional capacity" (902 KAR 20:300). Kentucky has administrative regulations for "nursing facilities" (902 KAR 20:300) but also "nursing homes" (902 KAR 20:048).

Nursing homes are defined as "establishments with permanent facilities that include inpatient beds" and "services provided may include medical services and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services" (902 KAR 20:048).

Nursing facilities are defined as “a nursing facility licensed pursuant to this reg and 902 KAR 20:008 (which relates to license procedures and fee schedules).

902 KAR 20:048: “(b) When the patient’s condition exceeds the scope of services of the facility, the patient, upon physician’s orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.”

Program staff at a certified adult-day center shall include trained and experienced staff who shall be present each day of operation and at least two staff members at the adult-day center at times when there is more than one client in attendance. Staffing ratios shall be one staff to one client; two staff if two to 10 clients; three staff if 11 to 15 clients; one staff member for each five additional clients over 15; one staff member certified in CPR; and a director that meets the qualifications laid out in 910 KAR 1:160 (9)(a)1.

Prior to assuming duties, paid and volunteer personnel shall receive a minimum of six hours of orientation including program objectives; policies and procedures; health, sanitation, emergency procedures; client confidentiality; and personnel policies.

Within three months of employment, staff shall be provided a minimum of 34 hours of basic training that includes one hour of the aging process; seven hours of recognizing and reporting suspected adult abuse neglect or exploitation; nine hours of dementia training, including causes and manifestations of dementia and managing a client with dementia; 10 hours of crisis intervention with a combative client; and 11 hours of effects of dementia on the caregiver. Staff shall receive a minimum of eight hours of annual training to review and update knowledge and skills. HCBS providers must also ensure compliance with federal Medicaid laws and training.

According to KRS 194A. 717, staffing in an assisted-living community shall be sufficient in number and qualification to meet the 24-hour scheduled needs of each client pursuant to the lease agreement and functional needs assessment; one awake staff member shall be on site at all times; an assisted-living community shall have a designated manager who is at least 21 years of age, has at least a high school diploma or GED and has demonstrated management or administrative ability to maintain the daily operations; and no employee who has an active communicable disease.

According to KRS 194A.719: In-service Education for Staff and Management, ASL staff and management shall receive orientation education (within 90 days of hire) on the following topics as applicable to the employee’s assigned duties: Alzheimer’s disease and other types of dementia and the aging process. Staff and management shall receive annual in-service education applicable to their assigned duties that address no fewer than four of the topics listed above.

The ASL must maintain a description of any dementia-specific training that is provided, including, at a minimum, the content, the number of offered and required hours, the schedule, and the staff who are required to complete the training.

According to 902 KAR 20:036(8), each facility must have an administrator who is responsible for the facility’s operation and who must delegate such responsibility in his/her absence, and one attendant shall be awake and on duty on each floor in the facility at all times.

According to 902 KAR 20:036(8), all employees shall receive in-service training to correspond with the duties of their respective jobs. Shall include but not be limited to one to three hours of policies/services/procedures; four hours of reporting cases of adult abuse, neglect, or exploitation; five hours of methods of assisting patients to achieve maximum abilities in ADLs; six hours of methods for proper application of physical restraints; and nine hours of the aging process training.

According to 902 KAR 20:036(g), the number of personnel required shall be based on the number of patients, amount and kind of PC, and the supervision and program needed to meet the needs of residents.

Only 902 KAR 20:048 (Nursing Homes) lays out staffing requirements. The facility shall have adequate personnel to meet the needs of the patients on a 24-hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients as determined by medical orders and by services required by this administrative regulation. When the staff to patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire, or other emergencies. Volunteers shall not be counted to make up minimum staffing requirements. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility.

902 KAR 20:048 (Nursing Homes) also lays out orientation and in-service requirements. Orientation program - the facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services, and emergency and disaster procedures. In-service training - all employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

Because NFs take Medicaid, there are federal training and education requirements.

42 CFR 483.95 – Training requirements: “A facility must develop, implement and maintain an effective training program for all new and existing staff; individuals providing services under a contractual arrangement; and volunteers, consistent with their expected roles. A facility must determine the amount and types of training necessary based on a facility assessment as specified at § 483.70(e). Training topics must include but are not limited to communication; resident’s rights and facility responsibilities; and abuse, neglect, and exploitation. In addition to the freedom from abuse, neglect, and exploitation requirements in § 483.12, facilities must also provide training to their staff that, at a minimum, educates staff on activities that constitute abuse, neglect, exploitation, and misappropriation of resident property as set forth at § 483.12; procedures for reporting incidents of abuse, neglect, exploitation, or the misappropriation of resident property; dementia management and resident abuse prevention; required in-service training for nurse aides. In-service training must be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year and include dementia management training and resident abuse prevention training.

There is a KRS provision, 216.595, that sets out requirements for “assisted living facilities and long-term care facilities claiming to provide special care for person’s with Alzheimer’s disease or other brain disorders.” (1) (a) Any assisted-living community as defined by KRS 194A.700 or long-term care facility as defined in KRS 216.535 that claims to provide special care for persons with a medical diagnosis of Alzheimer’s disease or other brain disorders shall maintain a written and current manual that contains the information specified in subsection (2) of this section. This manual shall be maintained in the office of the community’s or facility’s director and shall be made available for inspection upon request of any person. The community or facility shall make a copy of any program or service information contained in the manual for a person who requests information.

The community or facility shall maintain and update written information on the following:

(a) The assisted-living community's or long-term care facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease or other brain disorders;

(b) The process and criteria the assisted-living community or long-term care facility uses to determine placement into services for persons with Alzheimer's disease or other brain disorders;

(c) The process and criteria the assisted-living community or long-term care facility uses to transfer or discharge persons from special services for Alzheimer's or other brain disorders;

(d) The supervision provided for residents with a medical diagnosis of Alzheimer's disease or other brain disorders;

(e) The family's role in care;

(f) The process for assessing, planning, implementing, and evaluating the plan of care for persons with Alzheimer's disease or other brain disorders;

(g) A description of any special care services for persons with Alzheimer's disease or other brain disorders;

(h) Any costs associated with specialized services for Alzheimer's disease or other brain disorders; and

(i) A description of dementia or other brain disorder-specific staff training that is provided, including but not limited to the content of the training, the number of offered and required hours of training, the schedule for training, and the staff who are required to complete the training.

KRS 216B.072 provides the training/education requirements for these facilities. A long-term care facility as defined in KRS 216.535, except for a personal care home (note: there are Alzheimer's personal care facilities all over the state, yet no specific statutes), that advertises to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders or maintains an identifiable unit for the treatment of persons with a medical diagnosis of Alzheimer's disease or other related disorders shall provide training to all staff members in the care and handling of Alzheimer's disease or other related disorders as follows at least eight hours of orientation related to Alzheimer's disease or other related disorders to include the following:

(a) Facility policies;

(b) Etiology and treatment;

(c) Disease stages; (d) Behavior management; and

(e) Residents' rights; and

(2) Annual continuing education of at least five (5) hours related to Alzheimer's disease or other related disorders.

According to the State Long-Term Care Ombudsman, there are only two nursing facilities in Kentucky that operate under these statutes.

In response to a question from Representative Thomas about the lack of data and the possibility of partnering with universities to collect data, Ms. Longoria said the association has considered partnering with the universities to solicit funds for the 2020 BRFS by giving a gift that could be split between the University of Kentucky and the University of Louisville to make up the gap in funding. It's not a guarantee and it's not in their charge to provide funding for data collection because the universities do research. It would have to be in the form of a major gift.

In response to a question from Ms. Romelfanger, Ms. Longoria replied that the association's region nine, which includes Kentucky, Indiana, and Illinois, has also reached out to the development staff and medical schools at both of the universities concerning a major gift.

Senator Meredith stated that data collection is important, but that the main focus of the task force should be access to care, accessing care, and funding of care. He also added that he would like to hear from the caregivers and what their obstacles are and what would make their lives better.

In response to a question from Representative Frazier about the statistic from the 2016 BRFSS data that says one in eight of those aged 45 and over report they are experiencing confusion or memory loss, Ms. Longoria said that she thought it was broken down by gender but that she would have to get back with that information. She added that women are two-thirds more likely, African-American women are two-thirds more likely, and Hispanic women are one half more likely to develop the disease.

In response to a question from Representative Willner concerning receiving information about how other states are handling these issues, Ms. Longoria said that Barry Lewis, Director of Programming, and others at the national office would know more and that she would find out and get back to the task force with that information.

Ms. Romelfanger pointed out that there is a diagnostic code that many care providers are not aware of and do not use. She added that another focus of the data collection should be a knowledge base of caregivers in a professional setting. Ms. Longoria added that Congressman Guthrie has continued to push this issue and Hal Rogers has signed on as a cosponsor.

Mr. Travis added that Wellington Parc accepted Title 19/Medicare money which defines it as skilled care. It started in 1992 as an Alzheimer's facility that did not accept Medicare or Medicaid as a private pay only facility of 60 beds. Twenty private rooms were added in 1997 which are NF certified so two licenses are needed to be renewed every year. It was allowed to participate in the Title 18/Medicaid program so now both state and federal governments are involved. Most facilities are duly certified.

Mr. Hoskinson added that he believes there is not a consistent number of hours for continuing education. CNAs actually have more required hours of training. He would like the task force to look at the consistency of continuing education across the state.

Senator Mills asked Mr. Davis, Inspector General, CHFS, to speak. Mr. Davis gave a brief overview of his background and the history, certification rules, reimbursement structure, and obstacles of ASLs, NFs, and PCs.

Senator Mills told the members the meeting dates for the rest of the interim and asked them to come up with experts to testify before the task force during the next five meetings.

**Adjournment**

There being no further business, the meeting was adjourned at 11:45 a.m.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

### Committee Minutes

July 11, 2019

**Call to Order and Roll Call**

The Government Contract Review Committee met on Thursday, July 11, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Brian Mefford, Jessica Burke, Jay Huber, Stacy Woodrum, Heather Wagers, Ethan Witt, Brian Wilcox, Toby Smith, Jessica Hinkle, Sara Beth Gregory, Timothy Gutman, Charles Harman, Krista Hall, Jason Rainey, Jordan Smith, Beth Ward, Craig Collins, Bart Hardin, Stephanie Bates, Natalie Kelly, Hillarye Dailey, Mary Scollay, Marc Guifoil, Shawn Chapman, Jennifer Scutchfield, Jarrod Derring, Luke Morgan, Tim Wiard, Daniel Schulman, and Rich Storm, Damon Preston, Brian Rogers, and Melanie Foote.

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

A motion was made by Senator Meredith to approve Minutes of the June 2019, meeting of the committee. Representative Fugate seconded the motion, which passed without objection.

**JUNE DEFERRED ITEMS:**

DEPARTMENT FOR PUBLIC ADVOCACY

Jeffrey Sherr, 1900004346. Damon Preston, Brian Rogers, and Melanie Foote discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Senator Meredith seconded the motion, which passed without objection.

ECONOMIC DEVELOPMENT – OFFICE OF THE SECRETARY

Commonwealth Center for Commercialization, Inc., 1900004227. Brian Mefford and Jessica Burke discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Fugate seconded the motion, which passed with Representative Booker voting no.

JUSTICE – OFFICE OF THE SECRETARY

Motorcycle Safety Foundation, 1900003762; Total Control Training, 1900003763. Jay Huber, Stacy Woodrum, and Heather Wagers discussed the contracts with the committee. A motion was made by Senator Meredith to disapprove the contracts. Representative Hart seconded the motion which failed, with Senator Hornback, Senator Wheeler, Representative Booker, and Representative Hart voting no. A motion was made by Senator Wheeler to reconsider. Senator Meredith seconded the motion, which passed with Senator Hornback voting no. A motion was made by Senator Meredith to disapprove the contracts. Representative Hart seconded the motion, which passed with Senator Hornback and Representative Booker voting no.

**DEFERRED ITEMS:**

KENTUCKY RETIREMENT SYSTEMS

Vertosoft, LLC, 2020-0010. A motion was made by Representative Fugate to defer the contract to the August 2019 meeting of the committee. Representative Lee seconded the motion, which passed.

WESTERN KENTUCKY UNIVERSITY

Tennessee Equine Hospital North, 192010. A motion was made by Representative Fugate to defer the contract to the August 2019 meeting of the committee. Representative Lee seconded the motion, which passed.

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

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

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

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

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

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

ATTORNEY GENERAL

Tichenor and Associates, 1900004513; Tichenor and Associates, 1900004514.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

University of Pikeville, 1900004704; The Change Companies, 1900004720.

BOARD OF MEDICAL LICENSURE

Kentucky Physicians Health Foundation, 1900003730.

CHFS - OFFICE OF THE SECRETARY

Susan Gormley Tipton, 1900003969.

COUNCIL ON POSTSECONDARY EDUCATION

Blue & County, LLC, 1900003724; Texas Instruments, Inc., 1900004073; University of Kentucky Research Foundation, 1900004325; Eprep, Inc., 1900004416; University of Kentucky Research Foundation, 1900004808.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Community Action Kentucky, Inc., 1900003964; Multi, 1900004189; Central Kentucky CAC, Inc., 1900004344.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

EEMS, Inc. (Environmental Engineering & Measurement Services, Inc.), 1900004445.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Northern Kentucky Cooperative for Educational Services, Inc., 1900004679.

DEPARTMENT FOR LOCAL GOVERNMENT

ICF, Inc., LLC, 1900003843; Roy William Brothers, 1900004220-1.

DEPARTMENT FOR PUBLIC HEALTH

Bluegrass.Org, 1900003972; Multi, 1900004001; Multi, 1900004002; Multi, 1900004003; Multi, 1900004005; Multi, 1900004006; Kentucky Cancerlink, Inc., 1900004009; Big Sandy Health Care, Inc., 1900004010; Pennyroyal Healthcare Services, 1900004011; Ohio County Hospital Corporation, 1900004012; Go-Hire Employment and Development, Inc., 1900004071; Livingston Hospital Health Care, 1900004168; Cancer Survivors Against Radon, Inc., 1900004173; Multi, 1900004358.

DEPARTMENT FOR WORKFORCE INVESTMENT

American Institutes for Research, 1900004373; Greater Louisville Workforce Development Board, Inc., 1900004378; University of Kentucky Research Foundation, 1900004412; University of Kentucky Research Foundation, 1900004868; Options Unlimited, Inc., 1900004890.

DEPARTMENT OF CORRECTIONS

American Correctional Association, 1900003554; Dunn Law, PLLC, 1900004947.

DEPARTMENT OF EDUCATION

University of Kentucky Research Foundation, 1900003641; University of Kentucky Research Foundation, 1900003644; University of Kentucky Research Foundation, 1900003727; University of Kentucky Research Foundation, 1900003757; University of Louisville Research Foundation, 1900003782; Kentucky Special Parent Involvement Network, Inc., 1900003832; VSA Kentucky, 1900003842; Kentucky Educational Development Corporation, 1900004082; Kentucky Educational Development Corporation, 1900004088; Kentucky Educational Development Corporation, 1900004090; Kentucky Valley Education, 1900004094; Kentucky Educational Development Corporation, 1900004099; Kentucky Educational Development Corporation, 1900004103; Kentucky Valley Education, 1900004110; Kentucky Educational

Development Corporation, 1900004124; Northern Kentucky Cooperative for Educational Services, Inc., 1900004147; University of Kentucky Research Foundation, 1900004148; University of Kentucky Research Foundation, 1900004181; Assessment Solutions Group, 1900004200; Kentucky Educational Development Corporation, 1900004204; Kentucky Valley Education, 1900004205; University of Louisville Research Foundation, 1900004208; University of Kentucky Research Foundation, 1900004209; University of Kentucky Research Foundation, 1900004231; University of Kentucky Research Foundation, 1900004287; Kentucky School Board Association Educational Foundation, Inc., 1900004296; Human Resources Research Organization, 1900004339; Caveon, LLC, 1900004357; University of Kentucky Research Foundation, 1900004403; Panorama Education, Inc., 1900004431; University of Kentucky Research Foundation, 1900004707; University of Kentucky Research Foundation, 1900004717; Kentucky School Board Association Educational Foundation, Inc., 1900004735; Kentucky Valley Education, 1900004889.

DEPARTMENT OF HIGHWAYS

Burgess and Niple, Inc., 1900004794; Integrated Engineering, 1900004849; AECOM Technical Services, Inc., 1900004872; QK4, Inc., 1900004873; Michael Baker International, Inc., 1900004874; QK4, Inc., 1900004878; American Engineers, Inc., 1900004968; H. W. Lochner, Inc., 1900004969; J.M. Crawford & Associates, Inc., 1900004970.

DEPARTMENT OF MILITARY AFFAIRS

Tetra Tech, Inc., 1900004885.

DEPARTMENT OF VETERANS AFFAIRS

Med Care Pharmacy, LLC, 1900004785.

DEPARTMENT OF WORKERS' CLAIMS

Blue & County LLC, 1900004328.

EARLY CHILDHOOD DEVELOPMENT

Child Care Council of Kentucky, 1900004352; Metro United Way, Inc., 1900004360; Ohio Valley Educational Cooperative, 1900004361; United Way of the Bluegrass, 1900004686; Care for Children, Inc., 1900004687; Foundation for Appalachian Kentucky, Inc., 1900004691; Community Action Lexington Fayette, 1900004695; Western Kentucky University, 1900004696; Northeast Kentucky Community Action Agency, 1900004697; Center for Rural Development, 1900004698; United Way of Paducah-McCracken County, 1900004701; Western Kentucky University, 1900004702; Zero To Three National Center for Infants Toddlers & Family, 1900004705; Ghazvini Consulting Services, 1900004847.

EASTERN KENTUCKY UNIVERSITY

Mary Ronetta Brown, 20-188; Diane Renee Yates, 20-189; Tolene Pitts, 20-190; Patricia Works, 20-191; Diane Johnson, 20-195; Allen Real Estate Services, LLC, 20-247; Mountain View Veterinary Services, PLLC, 20-254.

FACILITIES & SUPPORT SERVICES

Stantec Consulting Services, Inc., 1900004505; Wood Environment & Infrastructure Solutions, Inc., 1900005000.

HORSE RACING COMMISSION

Racing Medication and Testing Consortium, Inc., 1900003802.

KENTUCKY COMMUNICATIONS NETWORK AUTHORITY

Public Resources Advisory Group, Inc., 1900004389; Bofa Securities, Inc., 1900004397; Morgan Stanley & Company, LLC, 1900004398.

KENTUCKY EMPLOYERS MUTUAL INSURANCE

Ascential Care Partners, LLC, 20-ACP-001; US-Reports, Inc. d/b/a Afirm, 20-AFM-001; Arcadia Settlements Group, Inc., 20-ASG-001; Bluegrass ChemDry, 20-BGC-001; Multi, 20-CLD-001; Conning, Inc., 20-CON-001; Dinsmore & Shohl, LLP, 20-DAS-001; Dean, Dorton, Allen, Ford, PLLC, 20-DDF-001; Furniture Solutions for the Workplace, Inc., 20-FSW-001; Gallagher Benefit Services, 20-GBS-001; GENEX Services, LLC, 20-GEN-001; Groom Law Group, 20-GLG-001; Hanna Resource Group, 20-HRG-001; ISO Claims Partners, Inc., 20-ISO-001; Lexington Financial Center, 20-LFC-001; MCF Advisors, LLC, 20-MCF-001; Milliman, Inc., 20-MIL-001; McCready & Keene, Inc., A OneAmerica Company, 20-MKI-001; McCarthy Strategic Solutions, 20-MSS-001; TEKSystems, Inc., 20-TEK-001; TowerHunter, Inc., 20-THI-001; Underwriters Safety & Claims, 20-USC-001.

KENTUCKY ENVIRONMENTAL EDUCATION COUNCIL

Kentucky Association for Environmental Education, 1900004608.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION

Hawkins Delafield & Wood, LLP, 19-007.

KENTUCKY LOTTERY CORPORATION

MCM CPA's and Advisors, 20-16-011; Valenti Hanley, PLLC, 20-16-024-2; Ellipse Solutions, LLC, 20-17-016; Kizan Technologies LLC, 20-19-069.

KENTUCKY RETIREMENT SYSTEMS

Dean Dorton Allen Ford, PLLC, 1900004000.

KENTUCKY STATE POLICE

McBrayer, PLLC, 1900004340.

KENTUCKY STATE UNIVERSITY

Dr. Marshall Grigsby, 20-25.

KY RIVER AUTHORITY

University of Kentucky Research Foundation, 1900003993.

KY TEACHERS RETIREMENT SYSTEM

AC Advanced Cleaning Services, LLC, 2020-0001; SouthEast Printing and Mailing, 2020-0002; Ice Miller, LLP, 2020-0005; Williams and Jensen, PLLC, 2020-0007; Mulloy Borland, LLC, 2020-0008; Stoll Kennon Ogden, PLLC, 2020-0009; Vertosoft, LLC, 2020-0010; Cavanaugh MacDonald, LLC, 2020-003.

MOREHEAD STATE UNIVERSITY

Sturgill, Turner, Barker & Moloney, PLLC, 20-001; Sturgill, Turner, Barker & Moloney, PLLC, 20-002; Sign Language Network of KY, Inc., 20-003; VITAC Corporation, 20-004; Robinson Kirlew & Associates, 20-005; Dean Dorton Allen Ford, PLLC, 20-006; The Segal Company, 20-007.

MURRAY STATE UNIVERSITY

Capitol Solutions, LLC, 010-20; The Segal Company (Eastern States), Inc., 012-20; Greg T. Taylor & Associates, 013-20; Deaf and Hard of Hearing Interpreter, Referral & Advocacy Services, LLC, 014-20; Trifecta Real Estate Services, 015-20; Sloan Appraisal & Realty Services, 016-20; Murphy Napier & Company, 017-20.

NORTHERN KENTUCKY UNIVERSITY

Patricia Bills, 2020-100.

OFFICE OF HEALTH DATA AND ANALYTICS

Multi, 1900003614; Kentucky Health Departments Association, Inc., 1900003995.

OFFICE OF INSPECTOR GENERAL

Pioneer Network In Culture Change, 1900004203.

STATE TREASURER

Mattingly Center, Inc., 1900004218.

TRANSPORTATION - OFFICE OF THE SECRETARY

Cole and Moore PSC, 1900003971; Embry Merritt Shaffar Womack, PLLC, 1900004018; Ferreri Law Group, PLLC, 1900004019; Fogle Keller Walker, 1900004020; Fox Wood and Estill, 1900004021; Fulton Devlin & Powers, LLC, 1900004022; Gerner & Kearns County PSC, 1900004023; Gess Mattingly and Atchison, 1900004024; Goldberg Simpson, LLC, 1900004025; Goodrum & Downs, PLLC, 1900004026; Jones & Walters, PLLC, 1900004027; Kerrick Bachert PSC, 1900004028; Logan & Gaines, PLLC, 1900004029; McMurry and Livingston, 1900004030; Morgan & Pottinger, P.S.C., 1900004032; Patrick Law Firm, 1900004033; Pohl and Aubrey PSC, 1900004034; Reed Weitkamp Schell and Vice, 1900004035; Robert L Roark, PLLC, 1900004036; Sturgill, Turner, Barker & Moloney, PLLC, 1900004037; Tooms Dunaway & Webster, 1900004038; Wallace Boggs, PLLC, 1900004039; Crown Title, LLC, 1900004041; Alicia A. Sneed, 1900004042; Bertram Cox & Miller, LLP, 1900004043; Daniels Law Office PSC, 1900004044; Embry Merritt Shaffar Womack, PLLC, 1900004045; Fox Wood and Estill, 1900004046; Gerner & Kearns County PSC, 1900004047; Gess Mattingly and Atchison, 1900004048; Greg Taylor, 1900004049; Hoffman & Barnes, 1900004050; Kerrick Bachert PSC, 1900004051; the Law Office of Kim Hunt Price, PLLC, 1900004053; Legacy Title Company, LLC, 1900004054; Logan & Gaines, PLLC, 1900004055; McMurry and Livingston, 1900004056; Tooms Dunaway & Webster, 1900004057; Wallace Boggs, PLLC, 1900004058.

UNIVERSITY OF KENTUCKY
Witt Kieffer, K20-107; Results Marketing & Design, Inc. d/b/a Ethos, K20-109; Horn and Associates in Rehabilitation, K20-110; Susan Burton, DMD, K20-111; Danny Corales MD, K20-112; NAMI Lexington (KY), Inc., K20-113; Smith Management Group, K20-114; Trinity Consultants, K20-115; Rockcastle Hospital and Respiratory Care Center, Inc., K20-116; St. Claire Regional Medical Center, K20-117; Oak Ridge Associated Universities, Inc., K20-118.

UNIVERSITY OF LOUISVILLE
JRA, Inc., 20-004.

WESTERN KENTUCKY UNIVERSITY
Sodexo Management Inc., 192009; Employers Risk Services A Division of Houchens Insurance Group, 192011; Grenzebach Glier & Associates, 192012.

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

BOARD OF MEDICAL LICENSURE
Multi, 1900000777; Multi, 1900000777.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING
Neurobehavioral Resources Ltd, 1900000437.

CHFS - OFFICE OF THE SECRETARY
Thomas J. Hellmann Attorney-At-Law PLLC, 1900002243.

DEPARTMENT FOR COMMUNITY BASED SERVICES
Public Consulting Group, Inc., 1800001649.

DEPARTMENT FOR INCOME SUPPORT
Dr. William Underwood, 1900000483; Malissa J. Mollett, 1900001951.

DEPARTMENT FOR PUBLIC HEALTH
Multi, 1700002138; Multi, 1700002723.

DEPARTMENT OF HIGHWAYS
WMB, Inc., 0700003516-1; Dlz Kentucky, Inc., 0700003516-1; HMB Professional Engineers, Inc., 1300000186; EA Partners, PLC, 1300002466; HMB Professional Engineers, Inc., 1500002143; Bureau Veritas Company, 1700000588; Integrated Engineering, 1700002776; Aecom Technical Services, Inc., 1800000306; QK4, Inc., 1800000321; Palmer Engineering County, 1900002860; Haworth Meyer Boleyn, Inc., C-99005159.

DEPARTMENT OF INSURANCE
Heather Quinn, LLC, 1900003925.

DEPARTMENT OF JUVENILE JUSTICE
Keith Hardison, 1800002061.

DEPARTMENT OF MILITARY AFFAIRS
Public Private Solutions Group, 1900001602.

DEPARTMENT OF VETERANS AFFAIRS
Multi, 1800001970; Multi, 1900000323.

EASTERN KENTUCKY UNIVERSITY
Sturgill, Turner, Barker & Moloney, PLLC, 20-074; CMTA, Inc., 20-096; Elise Russell, 20-123.

FACILITIES & SUPPORT SERVICES
Mactec Engineering & Consulting, 1000002150; HMB Professional Engineers, Inc., 1200002582; Third Rock Consultants, LLC, 1200003126; Sherman Carter Barnhart, 1400001413; Hafer Associates, 1500001053; Omni Architects, 1500001238; Ensafe, Inc., 1600002252; K. Norman Berry Associates, 1800000098.

JUSTICE - OFFICE OF THE SECRETARY
Balance Dynamics Motorcycle Training Center, Inc., 1900001592.

KENTUCKY EDUCATIONAL TELEVISION
Michelle L. Grant, 1900000169.

KENTUCKY LOTTERY CORPORATION
IGT Global Solutions Corporation f/k/a GTECH Corporation, 19-15-001; SeNet International Corporation, 19-18-032.

KENTUCKY RETIREMENT SYSTEMS
Ice Miller, 1900000705; Morris James, LLP, 1900002128.

MILITARY AFFAIRS COMMISSION
Sarah Nicole Gossett, 1900000248-1; Russell R. Watts, 1900000276-1.

MURRAY STATE UNIVERSITY
McClain DeWees, PLLC, 014-19; Peck, Shaffer & Williams, a division of Dinsmore & Shohl, LLC, 018-14; ERS Group, 100-18.

NORTHERN KENTUCKY UNIVERSITY
SHP Leading Design, 2019-114; Omni Architects, 2019-115; Moody Nolan, Inc., 2019-124.

TRANSPORTATION - OFFICE OF THE SECRETARY
Benson Group, LLC, 1900002528; Reed Weitkamp Schell and Vice, 1900004035.

UNIVERSITY OF KENTUCKY
Murphy Group Architects, A181140; CMTA, Inc., K19-106; Blue & Company, LLC, K19-160; Marshall Medical Management, LLC, K19-195; Benson Law Offices, K19-196; Commonwealth Anesthesia, PSC, K19-202; NEPCON, LLC, K19-231.

UNIVERSITY OF LOUISVILLE
McCarthy Strategic Solutions, 19-019.

WESTERN KENTUCKY UNIVERSITY
Huron Consulting Services, LLC, 181929; Ann Huttner Coaching, Inc. d/b/a Oak Treek Leadership Coaching, 181938; Multi, 182014; Multi, 182014; Multi, 182014; Multi, 182020.

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

ATTORNEY GENERAL
Family Nurturing Center of Kentucky, 1900004606.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES
Eastern Kentucky University, 1900003968; Pathways, Inc., 1900004169; Pennyroyal Regional Mental Health Mental Retardation Board, 1900004176; Communicare, Inc., 1900004178; Centerstone of Kentucky, Inc., 1900004187; Lifeskills, Inc., 1900004193; Comprehend, Inc., 1900004202; Mountain Comprehensive Care Center, 1900004217; Lake Cumberland Mental Health Mental Retardation Board, 1900004222; Bluegrassorg, 1900004235; Kentucky River Community Care, Inc., 1900004241; University of Kentucky, 1900004407; University of Kentucky, 1900004539.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 1900004391; Multi, 1900004491.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Kentucky Housing Corporation, 1900003852; Audubon Area Community Services, 1900004341; Big Sandy Area Development District, 1900004342; Greater Louisville Workforce Development Board, Inc., 1900004347; Northern Kentucky Area Development District, 1900004349; Eastern Kentucky University, 1900004478.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Copperhead Environmental Consulting, Inc., 1900004097; Botanica, Inc., 1900004375; United States Department of the Interior, 1900004417; US Department of Agriculture, 1900004877.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Multi, 1900004399; Multi, 1900004437; Multi, 1900004439; Multi, 1900004440; Multi, 1900004448; Multi, 1900004489; Multi, 1900004504; Multi, 1900004506; Multi, 1900004507; Multi, 1900004522; Multi, 1900004536; Eastern Kentucky University, 1900004680.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Hindman, 1900003660; City of Somerset, 1900003703; Harlan County Fiscal Court, 1900004188; Southern Water and Sewer, 1900004386; Lyon County Industrial Development Authority, 1900004618; Graves County Fiscal Court, 1900004692; Lawrence County Fiscal Court, 1900004740; Harlan County Fiscal Court, 1900004741; Owen County, 1900004743; Knott County Fiscal Court, 1900004753; Henderson County Fiscal Court, 1900004756; Pike County Fiscal Court, 1900004791; Owsley County, 1900004863; Owsley County, 1900004866; McCreary County Fiscal Court, 1900004952.

DEPARTMENT FOR MEDICAID SERVICES

University of Kentucky, 1900003801.

DEPARTMENT FOR WORKFORCE INVESTMENT

Eastern Kentucky Cep, Inc., 1900004384; Kentucky Community and Technical College System, 1900004415; Hazard Community and Technical College, 1900004435.

DEPARTMENT OF AGRICULTURE

Kentucky Association of Food Banks, Inc., 1900004786.

DEPARTMENT OF CORRECTIONS

Henderson County, 1900000424-1.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Eastern Kentucky University, 1900004297.

DEPARTMENT OF EDUCATION

Bullitt County Board of Education, 1900003550; Campbell County Board of Education, 1900003552; Fulton County Board of Education, 1900003553; Marion County Board of Education, 1900003555; Russell Independent School District, 1900003557; Meade County Board of Education, 1900003559; Mason County Board of Education, 1900003560; Scott County Board of Education, 1900003783; Clark County Board of Education, 1900003784; Jefferson County Board of Education, 1900003790; Ohio Valley Educational Cooperative, 1900003819; Eastern Kentucky University, 1900003820; Northern Kentucky University, 1900003841; Kentucky Valley Education, 1900003846; Utah State University, 1900003851; Ashland Board of Education, 1900003853; Calloway County Board of Education, 1900003870; Campbell County Board of Education, 1900003871; Elliott County Board of Education, 1900003886; Floyd County Board of Education, 1900003890; Hart County Board of Education, 1900003902; Jefferson County Board of Education, 1900003907; McCracken County Board of Education, 1900003930; Nelson County Board of Education, 1900003940; Newport Independent School District, 1900003941; Shelby County Board of Education, 1900003953; Woodford County Board of Education, 1900003955; Wolfe County Board of Education, 1900003962; Northern Kentucky University, 1900003984; CHS Department for Public Health Food Safety Branch, 1900003996; Bell County Board of Education, 1900004072; Fleming County Board of Education, 1900004074; Pulaski County Board of Education, 1900004076; Jefferson County Board of Education, 1900004077; Knox County Board of Education, 1900004078; Jefferson County Board of Education, 1900004079; Henderson County Board of Education, 1900004080; Leslie County Board of Education, 1900004081; Corbin Independent School District, 1900004083; Carter County Board of Education, 1900004084; Leslie County Board of Education, 1900004086; Scott County Board of Education, 1900004087; Glasgow Independent School District, 1900004092; Scott County Board of Education, 1900004093; Madison County Board of Education, 1900004095; Green County Board of Education, 1900004096; Jefferson County Board of Education, 1900004098; Madison County Board of Education, 1900004100; Jefferson County Board of Education, 1900004104; Spencer County Board of Education, 1900004105; Montgomery County Board of Education, 1900004106; Campbell County Board of Education, 1900004107; Campbell County Board of Education, 1900004108; Owensboro Independent School District, 1900004109; Jefferson County Board of Education, 1900004111; Christian County Board of Education, 1900004112; Hopkins County Board of Education, 1900004113; Oldham County Board of Education, 1900004114; Montgomery County Board of Education, 1900004115; Jefferson County Board of Education, 1900004116; Trigg County Board of Education, 1900004117; Estill County Board of Education, 1900004118; Jefferson County Board of Education, 1900004120; Hardin County Board of Education, 1900004129; Jefferson County Board of Education, 1900004130; Scott County Board of Education, 1900004131; Science Hill Independent School District, 1900004132; Owen County Board of Education, 1900004133; Clark County Board of Education, 1900004136; Fayette County Board of Education, 1900004137; Madison County Board of Education, 1900004139; Scott County Board of Education, 1900004140; Anderson County Board of Education, 1900004142; Bath County Board of Education, 1900004145; Fayette County Board of Education, 1900004149; Jefferson County Board of Education, 1900004150; Woodford County Board of Education, 1900004151; Hopkins County Board of Education, 1900004152; Scott County Board of Education, 1900004153; Jefferson County Board of Education, 1900004155; Frankfort Independent School District, 1900004156; Jefferson County Board of Education, 1900004157; Estill County Board of Education, 1900004158; Hopkins County Board of Education, 1900004159; Corbin Independent School District, 1900004160; Knox County Board of Education, 1900004161; Boyd County Board of Education, 1900004162; Newport Independent School District, 1900004163; Shelby County Board of Education, 1900004164; Adair County Board of Education, 1900004167; Fayette County Board of Education, 1900004184; Garrard County Board of Education, 1900004186; Allen County Board of Education, 1900004197; Spencer County Board of Education, 1900004213; Kentucky Valley Education, 1900004223; Kentucky Community and Technical College System, 1900004232; Bellevue Independent School District, 1900004236; Berea Independent Board of Education, 1900004237; Breathitt County Board of Education, 1900004240; Carter County Board of Education, 1900004242; Casey County Board of Education, 1900004244; Christian County Board of Education, 1900004245; Clark County

Board of Education, 1900004246; Clinton County Board of Education, 1900004247; Crittenden County Board of Education, 1900004248; Cumberland County Board of Education, 1900004249; Danville Independent School District, 1900004250; Fayette County Board of Education, 1900004251; Floyd County Board of Education, 1900004252; Fulton Independent Board of Education, 1900004253; Garrard County Board of Education, 1900004254; Glasgow Independent School District, 1900004255; Harlan County Board of Education, 1900004256; Hart County Board of Education, 1900004257; Jackson County Board of Education, 1900004258; Larue County Board of Education, 1900004259; Livingston County Board of Education, 1900004261; Martin County Board of Education, 1900004268; Menifee County Board of Education, 1900004269; Metcalfe County Board of Education, 1900004270; Eastern Kentucky University, 1900004271; Middlesboro Independent School District, 1900004272; Monroe County Board of Education, 1900004273; Owensboro Independent School District, 1900004274; Owsley County Board of Education, 1900004275; Paris Independent School District, 1900004276; Russell County Board of Education, 1900004277; Russellville Independent School District, 1900004278; Southgate Independent School District, 1900004279; Warren County Board of Education, 1900004280; Washington County Board of Education, 1900004281; Wayne County Board of Education, 1900004282; Webster County Board of Education, 1900004283; Whitley County Board of Education, 1900004284; Williamstown Board of Education, 1900004285; Wolfe County Board of Education, 1900004286; University of Kentucky Collaborative Center for Literacy Development, 1900004293; Murray State University, 1900004295; Murray State University, 1900004310; Eastern Kentucky University, 1900004316; Meade County Board of Education, 1900004387; Ohio County Board of Education, 1900004402; Office of Employer and Apprenticeship Services, 1900004524; Walton-Verona Independent School District, 1900004683; Kentucky Community and Technical College System, 1900004796; Barren County Board of Education, 1900004869; Danville Independent School District, 1900004879; Johnson County Board of Education, 1900004886; Jefferson County Board of Education, 1900004888; Eastern Kentucky University, 1900004895; Fayette County Board of Education, 1900004917; Jefferson County Board of Education, 1900004937; Pike County Board of Education, 1900004941; Berea Independent Board of Education, 1900004956; Shelby County Board of Education, 1900004960; Shelby County Board of Education, 1900004962; Western Kentucky University, 1900004992.

DEPARTMENT OF JUVENILE JUSTICE
Kentucky Department of Education, 1900003817; Louisville Jefferson County Metro Government, 1900004880.

DEPARTMENT OF MILITARY AFFAIRS
Western Kentucky Food Service, 1900003966-1; Oldham County Fiscal Court, 1900004372; City of Madisonville, 1900004746.

DEPARTMENT OF REVENUE
Multistate Tax Commission, 1900004345.

DEPARTMENT OF WORKPLACE STANDARDS
Department for Public Health, 1900004333.

EARLY CHILDHOOD DEVELOPMENT
Kenton County Public Library, 1900004343.

ECON DEV - OFFICE OF THE SECRETARY
Shaping Our Appalachian Region, Inc., 1900004379.

JUSTICE - OFFICE OF THE SECRETARY
Kentucky Department of Corrections, 1900004876.

KENTUCKY DEPARTMENT OF PARKS
Breaks Interstate Parks Commission, 1900004134; Eastern Kentucky University, 1900004414.

KY RIVER AUTHORITY
United States Department of the Interior, 1900003991.

OFFICE OF INSPECTOR GENERAL
University of Kentucky Research Foundation, 1900002938-1.

PUB PROTECTION - OFFICE OF THE SECRETARY
Kentucky Labor Cabinet, 1900004359.

STATE TREASURER
Center for Accessible Living, 1900003339.

TRANSPORTATION - OFFICE OF THE SECRETARY
Kentucky Community and Technical College System, 1900004060; Federal Highway Administration National Highway Institute, 1900004061.

UNIVERSITY OF KENTUCKY
Southeast Community & Technical College, 001-20; Gateway Community Technical College, 002-20; Morehead State University, 003-20.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS
National Center for State Courts, 1900002072.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES
Centerstone of Kentucky, Inc., 1800000550; NAMI Lexington Kentucky, Inc., 1800001999; Chestnut Health Systems, Inc., 1800002030; Bluegrass.org, 1900001648; Kenton County Fiscal Court, 1900002798; Voices of Hope - Lexington, Inc., 1900002799.

COUNCIL ON POSTSECONDARY EDUCATION
Kentucky Department of Education, 1900002352; National Center for Higher Education Management Systems, Inc., 1900003026.

DEPARTMENT FOR COMMUNITY BASED SERVICES
University of Kentucky Research Foundation, 1800001650.

DEPARTMENT FOR INCOME SUPPORT
State of Mississippi, 1800001783.

DEPARTMENT FOR LOCAL GOVERNMENT
University of Kentucky Research Foundation, 1900002297; Bell County, 1900002404; Perry County Fiscal Court, 1900003310.

DEPARTMENT FOR MEDICAID SERVICES
University of Kentucky Research Foundation, 1900002797.

DEPARTMENT FOR NATURAL RESOURCES
Multi, 1800000233.

DEPARTMENT FOR PUBLIC HEALTH
University of Kentucky Research Foundation, 1800001733; University of Kentucky Research Foundation, 1900003173; Justice Cabinet, 1900003253.

DEPARTMENT FOR WORKFORCE INVESTMENT
Kentucky Transportation Cabinet, 1900000040.

DEPARTMENT OF AGRICULTURE
Multi, 1900003210; Multi, 1900003211; Northern Kentucky Area Development District, 1900003662; Feeding America, Kentucky's

Heartland, 1900003664; Gods Pantry Food Bank, Inc., 1900003666; Purchase Area Development District, Inc., 1900003667; Dare To Care, Inc., 1900003668.

DEPARTMENT OF CORRECTIONS
Montgomery County, 1900000485.

DEPARTMENT OF EDUCATION
Murray State University, 1900001135; Kentucky Department of Agriculture, 1900001181; Indiana University, 1900002028; University of Louisville Research Foundation, 1900002720.

DEPARTMENT OF JUVENILE JUSTICE
Community Resources for Justice Crime and Justice Institute, 1900000329.

DEPARTMENT OF MILITARY AFFAIRS
Fort Knox Community Schools Food Service, 1900001278; Eminence Independent Board of Education, 1900001518.

DEPARTMENT OF TRAVEL
Multi, 1900002850.

JUSTICE - OFFICE OF THE SECRETARY
Kentucky Medical Services Foundation, Inc., 1900001837.

KENTUCKY LOTTERY CORPORATION
Finance & Administration Cabinet, 19-001.

MILITARY AFFAIRS COMMISSION
Kentucky Science and Technology Corporation, 1900000653.

OFFICE OF INSPECTOR GENERAL
Trilogy Health Services, 1700001314; University of Kentucky Research Foundation, 1900002938.

TRANSPORTATION - OFFICE OF THE SECRETARY
University of Louisville Research Foundation, 1900000897.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

AUDITOR OF PUBLIC ACCOUNTS
Harding Shymanski and Company, 1900003983. Sara Beth Gregory and Timothy Gutman discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

DEPARTMENT FOR COMMUNITY BASED SERVICES
Jobs for Kentucky's Graduates, 1900004436. Toby Smith and Jessica Hinkle discussed the contract with the committee. A motion was made by Senator Meredith to defer the contract to the August 2019 meeting of the committee. Senator Hornback seconded the motion, which passed.

DEPARTMENT OF EDUCATION
Leading Educators, Inc., 1900004174. Charles Harman and Krista Hall discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY
Multi, 20-197; Multi, 20-198; Multi, 20-199; Multi, 20-200; Multi, 20-201; Multi, 20-202; Multi, 20-203; Multi, 20-204; Multi, 20-205; Multi, 20-206; Multi, 20-207; Multi, 20-208. Ethan Witt and Brian Wilcox discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed.

ECON DEV - OFFICE OF THE SECRETARY
University of Louisville Research Foundation, 1900004370; Awesome Center for Entrepreneurship, Inc., 1900004380; Northern Kentucky University Foundation, Inc., 1900004381. Brian Mefford, Jason Rainey, and Jessica Burke discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

HORSE RACING COMMISSION
Racing Surfaces Testing Laboratory, 1900003800. Mary Scollay, March Guifoil, and Shawn Chapman discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Hornback, Senator Wheeler, and Representative Fugate voting no.

MURRAY STATE UNIVERSITY
Multi, 001-20; Multi, 002-20; Multi, 003-20; Multi, 004-20; Multi, 005-20; Multi, 006-20; Multi, 007-20; Multi, 008-20; Multi, 009-20. Jordan Smith and Beth Ward discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed.

UNIVERSITY OF KENTUCKY
Kaufman, Hall & Associates, LLC, K20-106; Davis Moore Capital, LLC, K20-108. Craig Collins and Bart Hardin discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed with Senator Wheeler and Senator Meredith voting no.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

BOARD OF ELECTIONS
McBrayer McGinnis Leslie & Kirkland, PLLC, 1900002068. Jennifer Scutchfield, Jarrod Derring, and Luke Morgan discussed the contract with the committee. A motion was made by Senator Wheeler to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

DEPARTMENT FOR MEDICAID SERVICES
Island Peer Review Organization, Inc., 1800002210; Myers and Stauffer, LLC, 1900002320. Stephanie Bates and Natalie Kelly discussed the contracts with the committee. A motion was made by Senator Meredith to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

DEPARTMENT OF CORRECTIONS
Mid America Health, Inc., 1900001785; Diamond Drugs, Inc., 1900001789. Hillarye Dailey and Stacy Woodrum discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Senator Wheeler seconded the motion, which passed.

UNIVERSITY OF KENTUCKY
Whitecap Health Advisors, LLC, K19-199. Craig Collins and Bart Hardin discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Meredith voting no.

**THE FOLLOWING PERSONAL SERVICE CONTRACT FOR $10K AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

KENTUCKY FISH AND WILDLIFE RESOURCES
Blue & Company, LLC, 1900004221. Tim Wiard, Daniel Schulman, and Rich Storm discussed the contract with the committee.

A motion was made by Senator Hornback to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

There being no further business, the meeting adjourned at 1:30 PM.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes**

July 3, 2019

**Call to Order and Roll Call**

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, July 3, 2019, 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; Senator Dennis Parrett; Representatives Kim King, Brandon Reed, and Dean Schamore.

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

LRC Staff: Nathan Smith, Tanya Monsanto, Kelly Ludwig, and Rachel Hartley.

**Governor's Office of Agricultural Policy Report**

Warren Beeler testified about the allocation of funds by county since the inception of the Kentucky Agricultural Development Fund.

Bill McCloskey described the Agricultural Development Board's projects for June under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Deceased Farm Animal Removal, Next Generation Farmer, Youth Agriculture Incentives Program, and the On-Farm Energy Program.

The requested program amendments discussed included:

Owen County Farm Bureau requested an additional $325,000 in Owen County funds for CAIP. The board recommended approval, which would bring the program total to $330,500.

Graves County Agricultural Development Fund requested an additional $63,520 in Graves County funds for CAIP. The board recommended approval, which would bring the program total to $113,883.

Simpson County Conservation District requested an amendment to CAIP. The board recommended approval, which did not affect the program total.

Spencer County Conservation District requested an amendment to CAIP. The board recommended approval, which did not affect the program total.

Trigg County Soil Conservation District requested an additional $73,713 in Trigg County funds for CAIP. The board recommended approval, which would bring the program total to $134,063.

The projects discussed included:

Christian Fellowship was approved for up to $17,045 in Marshall County funds for the construction of a school greenhouse.

Metcalfe County Extension District Board was approved for up to $190,000 in state funds and $10,000 in Metcalfe County funds to construct a farmers market and to enclose the pavilion.

The Metcalfe County 4-H Council was approved for $1,350 in Metcalfe County funds to purchase 18 hams for meat production education.

Pendleton County Extension District Foundation was approved for $90,000 in state funds and $10,000 in Pendleton County funds for the construction of a permanent open-air farmers market pavilion structure.

Christian County Agricultural Extension Foundation was approved for up to $250,000 in Christian County funds for the construction of an exposition facility.

Wise Meat Packing was approved for up to $50,248 in multiple county funds to purchase equipment.

Western Kentucky State Fair was approved for up to $60,975 in multiple county funds to upgrade the fairground facilities.

Kentucky State Fair Board was approved for up to $1,500,000 in state funds to reconstruct the Freedom Hall make-up ring and to conduct a traffic engineering study.

McLean County 4-H Council was approved for up to $7,680 in McLean County funds to purchase small animal holding pens.

Bluegrass Organic Hemp was denied due to the board's policy on hemp.

**Kentucky Cattlemen's Association**

Dave Maples testified about the Kentucky Cattlemen's Association's (KCA) long range plan that will be implemented from 2020 to 2025.

Kentucky has the second most cattle per square mile behind Missouri. The KCA has a strong emphasis on education, because beef farmers own the cattle.

All of the cattle in Kentucky are eventually transported out of state, but there are strict regulations on transportation. Most of the beef packing plants are in the western United States so cattle must be transported, but the KCA would like all cattle to stay in Kentucky.

The KCA believes the solution is to feed cattle locally, utilize byproducts of the distillery industry as high quality feed, build a beef processing plant within the region, and develop a beef and forage innovation center.

**Kentucky Beef Network**

Becky Thompson stated the goal of the Kentucky Beef Network (KBN) is to move the marketed product away from a commodity and closer to a recognized value-added product in demand by retailers. KBN uses proven, modern production practices for master cattlemen and master grazer classes, which have increased the total pounds of beef produced.

The Kentucky Beef Quality and Care Assurance Program aims to raise awareness of practices that ensure proper cattle handling and welfare to keep producers safe while continuing to provide healthy beef to consumers. The Beef Efficiency Conference invites nationally recognized speakers to challenge attendees on where efficiencies can be found on the farm.

The Integrated Reproductive Management Program was implemented in 2015 and has spread throughout Kentucky. The focus of the program is to narrow the calving window so there are more pounds weaned. The result is a 24 percent revenue increase when marketing the calves.

The Certified Pre-Conditioned for Health program provides marketing opportunities for calf farmers and adds value to the calves through pre-conditioning and weaning for 45 days.

The KBN operates the Eden Shale Farm in partnership with the University of Kentucky, and it has been used as a learning center and demonstration farm since 2012.

Beef Solutions is a program to process local beef for distribution through Kroger. Over 900 cattle have been processed, and 426,220 pounds have been packaged since 2018.

In response to a question from Representative Schamore, Ms. Thompson stated there is an enrollment process for farmers to purchase cattle. There is currently a six month waiting period.

In response to a question from Representative Dossett, Ms. Thompson stated the challenges to build larger facilities for cattle are land availability and the topography in Kentucky. Mr. Maples stated a network of small barns would have the same effect.

There being no further business, the meeting was adjourned.

## PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

### Minutes

July 12, 2019

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Friday, July 12, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rob Rothenburger, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Rob Rothenburger, Co-Chair; Senators Tom Buford, Perry B. Clark, Reginald Thomas, Stephen West, Whitney Westerfield, and Phillip Wheeler; Representatives Lynn Bechler, Chris Fugate, Al Gentry, Ruth Ann Palumbo, and Walker Thomas.

Guests: Judge Roger Crittenden, Chair, Child Fatality and Near Fatality External Review Panel. Elisha Mahoney, Executive Staff Advisor, Justice and Public Safety Cabinet. Elizabeth Caywood, Deputy Commissioner; Lesa Dennis, Chief of Staff; Christa Bell, Director, Division of Protection and Permanency; Melanie Taylor, Assistant Director, Division of Protection and Permanency; Laura Begin, Staff Assistant; Department for Community Based Services.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall; Van Knowles; Jean Ann Myatt; Sarah Ortkiese; Jeremy Skinner; William Spears; Shane Stevens; Susannah Stitzer; Joel Thomas; Tanner Rife, Graduate Fellow; and Christy Young, Committee Assistant.

**Minutes for June 7, 2019**

Upon motion by Representative Fugate and second by Representative Thomas, minutes for the June 7, 2019 meeting were approved by voice vote without objection.

**Staff Report: *Kentucky Child Fatality And Near Fatality External Review Panel, 2018 Update***

Ms. Stitzer said the panel is compliant with statutory requirements except that its annual report was not published on December 1, 2018. As the deadline approached, a number of cases for review had yet to be received from the Department for Community Based Services (DCBS). The panel decided to delay the annual report until February 1, 2019. Recommendation 1 of the Program Review report is that the General Assembly may wish to change the due date of the panel's annual report to February 1 to provide the panel with enough time to review all cases from the previous fiscal year.

Under its governing statute, the panel is required to destroy copies of case files and has been regularly destroying paper copies. Case files stored in the electronic information system are nearing the end of the 5-year retention period. Recommendation 2 is that the panel should establish a policy for the destruction of electronic documents.

Ms. Ortkiese said the panel is concerned that it is not reviewing all child fatalities and near fatalities that occur within the state. The panel receives its cases primarily from DCBS. The Department for Public Health also forwards cases to the panel, including from its local child fatality review teams that are under the jurisdiction of coroners. Not all localities have review teams, many existing teams may not have a quality review process, and some are new. The department is working to assist local teams on the review process.

Nationally, child fatality review cases are underreported. States have differing statutes for reporting cases and information to state review panels. Depending on the state and the agency, agencies may be mandated to report to the panel or may be allowed to provide information to panel if requested. The Kentucky panel has expressed concern about the number of Sudden Unexplained Death of Infants (SUDI) cases that have not been referred to the panel for its review.

Ms. Ortkiese summarized two statistics for Kentucky and other states for the period 2008 to 2017. In Kentucky, there were 2.10 fatalities per 100,000 children, nearly identical to the national rate of 2.21. In Kentucky, 0.13 percent of reports of child abuse involved a fatality, which was lower than the national rate of 0.23 percent. She showed comparisons of key characteristics of the Kentucky panel to panels in five selected states.

Ms. Stitzer summarized the recommendations the panel made from 2014 to 2018 in seven categories: DCBS, substance abuse, courts, medical providers, law enforcement, coroners, and general. The panel has made several recommendations regarding DCBS, most related to increased funding for the department or the department's protocols and internal review processes. DCBS is implementing significant changes initiated by state and federal legislation and its new model for internal review of errors, the Culture of Safety. Eventually, Program Review staff and the panel will be better able to determine how the changes relate to recommendations of the panel. The panel recommended DCBS review its protocols for screening out cases. The panel reviewed 27 cases from FY 2017 that were initially screened out by DCBS. The number of screened out cases has increased significantly; nearly one half of referrals to DCBS in 2017 were screened out. DCBS' position is that more calls should be screened out, which it argues would be workable with a proposed full differential response system that would enable DCBS to provide different services based on the assessed level of risk.

Substance abuse is another frequent subject of the panel's recommendations. Examples are recommendations related to neonatal abstinence syndrome and medication assisted treatment. The panel's most frequent recommendation pertaining to substance abuse is full implementation of family drug courts throughout the state. Kentucky previously had family drug courts, but funding for the program ended in 2008. Jefferson County has made efforts to reinstate its family drug court and in 2018 opened the Jefferson Family Recovery Center with funding from a nonprofit.

The panel's recommendations have frequently centered on using medical providers to educate parents on safe sleep practices and abusive head trauma. The Kentucky Hospital Association and Prevent Child Abuse Kentucky recently developed a video on safe sleep and abusive head trauma that is being distributed to birthing centers in the state.

Ms. Ortkiese said the panel twice recommended open court proceedings for dependency, neglect, and abuse proceedings. In 2016, the General Assembly authorized an open court pilot project, which began in 2018. The Administrative Office of Courts issued a 3-month status report that identified positives and negatives of the pilot and recommended further study.

The panel's recommendations on law enforcement relate to processing of child death scenes and drug testing of caregivers. The panel wants law enforcement to treat every child fatality or near fatality under the premise that the child may have been a victim of neglect or abuse. The Department for Criminal Justice Training has provided child death scene training for law enforcement and has requests for additional training.

The panel's recommendations involving coroners relate to their role in child death investigations. According to the panel, coroners' involvement varies by county. Child death notifications have increased, which the panel partly attributes to the use of pocket cards that are on scene guides. Use of the Sudden Unexplained Infant Death Form has increased, but often is incomplete according to the panel.

General recommendations relate to the education and awareness of child abuse and neglect. The General Assembly has enacted three statutes dealing with the panel's recommendations. The statutes cover education, training, and background check requests by parents on their children's caregivers.

Ms. Ortkiese said that the panel's recommendations are in its annual reports. It is not always apparent whether a recommendation is being made and the wording of some recommendations is unclear. Recommendation 3 of the Program Review report is that recommendations in the panel's annual reports should be easily identifiable and clearly stated.

Representative Palumbo asked how SIDS [Sudden Infant Death Syndrome] cases are related to SUDI cases. Ms. Ortkiese said that SIDS cases are included in SUDI cases.

In response to Representative Palumbo's question about why only 10 of 88 SUDI cases were reviewed by the panel, Ms. Ortkiese said that only 10 were referred to the panel. DCBS and panel officials could possibly explain further.

In response to Representative Palumbo's request for clarification of the 27 panel cases that were screened out, Ms. Stitzer said that DCBS uses specified criteria to determine whether further investigation of a referral is warranted. If the determination is no, the referral is screened out. DCBS does not investigate further but keeps a record of the referral.

In response to a question from Senator Wheeler about national underreporting of child fatalities, Ms. Ortkiese said that staff did not have access to data to indicate what the percentage would be for Kentucky.

Representative Bechler said that he is skeptical of estimates such as this that are widely accepted. He asked whether KRS 199.466 or any other statute requires that a background check on an individual caring for a child be completed after a parent or guardian requests it. Ms. Stitzer responded yes; the cabinet provides the results of the check to the individual who requested it.

Judge Crittenden introduced Ms. Mahoney and gave a response to the Program Review staff report. Regarding its Recommendation 1, he said that as of November 2018, the panel still had 60 cases from FY 2017 to review. The designated recipients of the panel's annual report were notified that it would be published on February 1, 2019. The panel will not provide an incomplete report even if the due date is not changed in statute.

Regarding Recommendation 2, the panel has now established a policy for destruction of electronic documents. The Commonwealth of Technology will delete documents with identifying information. The panel will maintain general data.

Regarding Recommendation 3, he said that he understands the concern with how recommendations are presented in the panel's reports. There is time pressure to produce the report and it is not always clear to whom a panel's recommendation should be addressed.

Judge Crittenden reiterated that the Department for Public Health suspected abuse or neglect in only the 10 SUDI cases that were referred to the panel. The panel has reviewed more than 600 cases in its history. Near fatalities are severe injuries, in some cases life altering, such as a brain injury. The panel disagrees with DCBS about screening out. Cases in which children are under 4, the referral is from a professional, or there have been previous referrals for the child should not be screened out.

Representative Rothenburger asked about the typical scenario of when there is a call to emergency medical services for a child that appears to involve abuse. Judge Crittenden said that once the child is at the hospital, staff should make a report to DCBS and law enforcement immediately. There should be a joint investigation. If abuse is found, DCBS should take action to determine whether the child should be removed from or returned to the home. After the investigation, the DCBS report is uploaded to the panel for its review.

In response to a question from Representative Rothenburger, Judge Crittenden said that the panel reviews cases from the previous fiscal year. Contract analysts review case materials and prepare summaries. Panel members also have access to original case materials.

Representative Rothenburger asked, given the delay in reviewing cases, about the mission of the panel. Judge Crittenden said that the purpose of the panel is to make recommendations related to system breakdowns to prevent future fatalities and near fatalities.

In response to a question from Representative Palumbo, Judge Crittenden said that the 27 fatality and near fatality cases that the panel reviewed in FY 2017 that were screened out should not have been. Representative Palumbo suggested that the committee look further into screening out.

In response to a question from Senator Wheeler about the delay in getting cases, Judge Crittenden said that he cannot say why it takes 10 months to do an investigation. Sometimes a criminal case is ongoing. The delay in uploading cases to the panel's file sharing system is because of a lack of staff.

In response to questions from Senator West, Judge Crittenden said that reports are retained 5 years, which is a requirement in statute or regulation. Paper materials are destroyed soon the after the panel meeting at which they are reviewed. The panel's reports are not used in criminal justice proceedings and the panel is not subject to open records requirements. The cabinet and law enforcement maintain their own records. One of the reasons the panel has asked for open courts is because it gives the public greater confidence in the judicial system.

In response to a question from Senator Thomas about the common themes in near fatality cases, Judge Crittenden cited substance abuse, especially opioids, as the most common theme. It is often a factor in head trauma caused by caregivers and neglect of care. He also cited family violence and young parents as themes.

Senator Carroll, commenting on the delay in records getting to the panel, said that integrity of the criminal investigation is paramount, so it must be thorough. He said the intake process used to be local and is now done via regional call centers. He has not always been pleased with the response when he has made a report.

Judge Crittenden said that DCBS could respond to the call center issue. A law enforcement representative is on the panel. The panel may receive the report while criminal justice proceedings are taking place. The relationship between the cabinet and law enforcement is good.

In response to Senator Carroll's question, Ms. Dennis said that calls go to a centralized regional system. There is no plan to return to local intake. Calls are managed within the central office for consistency. Central office staff in Frankfort review a sample of screened-out calls. There is a plan to record calls to better assess the intake process. The system will allow supervisors to join intake calls when needed.

In response to Senator Carroll's questions, Ms. Dennis said that there is a set process for taking a call. Intake decision criteria are in statute, regulation, and standards of practice and should be applied consistently across regions. Intake workers are trained to identify families who could use additional services and to refer them to community resources to prevent future problems. Ms. Caywood described this as a differential response system. Ms. Bell said that the preference is to have experienced intake workers, but this is not always possible. The call centers are adopting a safety model.

In response to Senator Carroll's question as to whether DCBS is comfortable with regional call centers as the best approach, Ms. Bell said that the regional approach is better for consistency across the state and allows for more central guidance and the use of more experienced staff. There is a need for a better balance with identifying community resources.

Senator Clark made a motion to adopt the staff report; Representative Palumbo seconded. The report *Kentucky Child Fatality And Near Fatality External Review Panel, 2018 Update* was adopted by roll call vote.

**Update: Implementation of HB 1, Response to Recommendations in 2018 Program Review Foster Care Report**

Ms. Caywood summarized provisions of HB 1, enacted in the 2018 regular session. As part of the child welfare transformation process, there were workgroups within DCBS as the legislation was being considered. The process incorporates consideration of recommendations in the 2018 Program Review foster care report. The three main goals of child welfare transformation are to safely reduce the number of children entering foster care, improve timeliness to appropriate permanency, and reduce caseloads. There have been 81 planning sessions as of May 1, 2019.

Ms. Bell described implementation of HB 1 by DCBS and trends in the number of foster care homes and adoptions. She also covered the status of two recommendations from the Program Review foster care report. DCBS is addressing Recommendation. 1.4 that the department should use existing data to calculate a more accurate "percent of need met" figure in its recruitment report. Each region now develops a targeted diligent recruitment plan that reflects its children in care. DCBS also considers how many children have to be placed outside a region to meet a child's needs. She said that DCBS has implemented Recommendation 1.5 that the department should indicate disruptive, neutral, and positive reasons for placement changes in its reports. The data are used to develop performance-based measures that are included in agreements with private child-care providers and child-placing agencies. A video on recruitment of foster care parents was shown. Ms. Dennis summarized the implementation of the HB 1 provision related to reporting of caseloads. She described the trend, mostly upward, in the number of children in custody of the cabinet. Ms. Begin said that HB 1 required the creation of a study group of public and private child welfare leaders, stakeholders, and advocates to make recommendations on performance-based contracting for licensed child-caring facilities and child-placing agencies and the feasibility of privatizing all foster care services. The group's report on performance-based contracting, which includes 20 recommendations, was submitted in November 2018. The group's report on privatization, which has four recommendations, was submitted in June 2019.

Ms. Caywood summarized the federal Family First Prevention Services Act of 2018. Kentucky will be one of the first states to implement its provisions. She concluded by saying that DCBS will focus on biological families in its priorities for the 2020 legislative session.

In response to questions from Representative Bechler, Ms. Bell said that it has taken 4 to 5 months to upload a case to the system used by the panel because of the old system involving regions sending photocopied documents to the central office for further work. The time to upload a case will get shorter with a new system and a full staff of four in the fatality unit. Ms. Taylor said that she hopes to reduce the time of the process by 2 months.

Senator Carroll said that he is concerned that the panel can review a case in an open meeting in which there is an ongoing criminal investigation. Ms. Caywood said that this is the way the statute sets up the panel. She said no identifying information is presented at panel meetings. Senator Carroll said that someone might be able to figure out such information anyway.

Representative Rothenburger said that care should also be taken in regard to open meetings and privacy provisions of HIPAA [Health Insurance Portability and Accountability Act of 1996].

The meeting was adjourned at 10:06 AM.

## KENTUCKY CAREER AND TECHNICAL EDUCATION TASK FORCE

**Minutes of the 2nd Meeting of the 2019 Interim**

**July 10, 2019**

**Call to Order and Roll Call**

The 2nd meeting of the Kentucky Career and Technical Education Task Force was held on Wednesday, July 10, 2019, at 10:00 a.m. in Room 129 of the Capitol Annex. Representative Bobby McCool, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Bobby McCool, Co-Chair; Senators Jimmy Higdon and Johnny Ray Turner; Representatives Kevin D. Bratcher, C. Ed Massey, and Reginald Meeks; and Steven Thomas.

Guests: Sabrina Cummins, OEA.

LRC Staff: Jo Carole Ellis, Lauren Busch, Seth Dawson, Chuck Truesdell, and Christal White.

**Approval of Minutes from June 18, 2019**

On a motion by Senator Wilson and a second by Representative Meeks, the minutes of the June 18, 2019, meeting were adopted by voice vote.

**Kentucky Department of Education**

David Horseman, Associate Commissioner, and Leslie Slaughter, Executive Advisor, Office of Career and Technical Education and Student Transition (CTEST), Kentucky Department of Education (KDE), gave an overview on the state's career and technical education system.

Mr. Horseman said 67 percent of high school students are enrolled in at least one career and technical education (CTE) course in a career pathway. Eighty-five percent of program area enrollments are connected to occupations within the top five industry sectors, and 15 percent are connected to the top support occupations within the industries.

Frequent acronyms associated with CTE include Area Technology Center (ATC), Locally-Operated Center (CTC), and Local Area Vocational Education Center (LAVEC). KDE governs 53 state-operated ATCs; CTCs are locally-operated and governed by a school district; and each LAVEC, which is either a CTC or a part of a high school facility, is district-governed and receives supplemental state funding. Student enrollment for grades 9 through 12 at secondary CTE systems include 53 state-operated ATCs serving 22,392 students; 42 LAVECs serving 31,365 students; and 220 other CTE program locations serving 95,665 students. KDE provides annual renewable contractual partnerships for principals and teachers. Some ATCs house additional teachers, special education staff, and counselors.

KDEs three central offices in the Division of Technical Schools and Continuous Improvement provide leadership and support to all 53 state-operated ATCs in the areas of budget and finance, procurement, supervision of principals, professional learning, and technical assistance. Funding based on enrollments goes back to the district in which the ATC resides and is used for building maintenance, upgrades, and small equipment purchases.

The majority of counties have access to ATC or CTC facilities into which multiple high schools feed, based on geography and transportation for students.

In response to a question from Senator Wilson relating to prior testimony from Commissioner Lewis, Mr. Horseman said student transportation can be an issue due to the costs of busing students, gas, and drivers. Through funding in the recently created New Skills for Youth (NSFY) grant, the concept of regionalizing classes allows students to receive academic instruction at the technology facility, eliminating the need for transportation. In response to a follow-up question, Mr. Horseman said KDE, in an advisory capacity, envisions combining resources among districts, business, industry, and interested parties to enter into interlocal agreements and work together to provide access as funds becomes available. Senator Wilson requested written recommendations from KDE to enable the legislature to establish policy regarding CTE.

Senator Higdon said while business and industry are willing to be part of the solution for technology centers to meet business and industry demands, progress is slow due to funding and the lack of local control. Mr. Horseman said state-operated centers are 100 percent funded by KDE, and the funding is proportionately divided based on program enrollment. On a follow-up question regarding the funding amount, Representative McCool said detailed financial aspects will be addressed in a future meeting.

In response to a question by Representative Meeks, Mr. Horseman said each special needs student in every building receives a specialized Individualized Education Plan (IEP) regardless of the absence of a special education teacher in the building and regardless of the student's specific needs.

Responding to a question by Senator Higdon, Mr. Horseman said the majority of funds for ATCs come from the General Fund and SEEK money does not follow students to ATCs.

In response to a question from Representative Massey, Mr. Horseman said funding is best utilized through business and industry partnering with schools and districts. Combining resources will allow more students to follow a specific career pathway. Mr. Horseman said students attending ATCs and coming from private schools within the region may pay tuition but details have not yet been finalized.

Ms. Slaughter has been instrumental in the implementation of the NSFY grant, which is considered the most transformational piece of work for CTE in the last three to five years. The critical first steps are creating greater efficiency, improving the delivery system, and expanding access for more students.

Prior to 2012, the 53 state-operated ATCs were governed and housed within the Education and Workforce Development Cabinet before being moved to KDE. The transition to having all CTE housed under KDE has created more efficiency by streamlining practices and allowing support of all 173 school districts and state-operated centers in a more cohesive, unified manner. Ms. Slaughter said the reorganization adds a more comprehensive approach for cross-institutional alignment and collaboration.

Ms. Slaughter mentioned the 2014 CTE Study issued by the Southern Regional Education Board. The first recommendation from the report was to commission a more in-depth study of the CTE funding.

The funding report, prepared by Thomas P. Miller & Associates and titled <u>First Things First, A Funding of Analysis of Kentucky's CTE Systems,</u> included the following recommendations: base funding for CTE on state goals and business and industry needs; convene a committee to explore ways of funding CTCs and ATCs equally; provide adequate funding for CTE programs to accomplish state priorities; create a proactive, intentional process of funding large equipment purchases and maintaining and/or upgrading current equipment; allow a locally-operated per-pupil funding formula weight tied to state-prioritized occupational and program areas based on state and regional industry needs; and explore CTE performance funding.

The vision for the NSFY grant is a regionalized governance and delivery of CTEs through accelerated career academies. The academies are employer-led through regional workforce areas with cross-institutional involvement and encompass career pathways with seamless transitions from secondary to postsecondary education. They are aligned to the state's and region's most in-demand careers, involve shared resources and funding among all partners, and provide valuable industry certifications and credentials recognized by business and industry.

Kentucky, selected as one of 25 states receiving a $100,000 planning grant, utilized the funds to study labor market information, do needs assessment work, and identify priorities. Kentucky was also approved for Phase 2 funding, a $2 million grant awarded over a three-year period. Kentucky has used the grant to address issues identified in the two reports by encouraging the development of a more regionalized approach, similar to the iLEAD or Ignite Academies, by incentivizing school districts to work together and share resources.

As a result, three cohorts of regional academies have been created. The idea is to create accelerated, all-day academies that can address various CTE issues such as transportation expenses and the need for wrap-around support services. The academies work with local workforce investment boards and the state workforce investment board to create employer-led processes so that the academies are designed to support the most in-demand state and regional occupations.

The grant is designed to tailor and personalize career pathways for students to ensure work-based learning opportunities and to incentivize districts who are ready and willing to dissolve district lines and build a regionalized approach for the benefit of students more efficiently. The grant has enabled partnerships to grow and evolve and has created interlocal agreements that share resources and commitments on sustaining and moving forward. Partnerships with industry leaders and employers in each region help design pathways and identify skills, knowledge, and competencies students must have. This provides the opportunity to pilot CTE innovation at a grassroots level and help solidify future structure and funding needs.

Most recently, a 2018 Executive Order changed the Office of Career and Technical Education to CTEST. The change moved student transition areas such as high school graduation requirements, dual credit, and advanced placement with CTE, which has enabled a more comprehensive and intentional approach to the integration of academics and CTE.

In response Representative McCool's question, Mr. Horseman said an accreditation approval process is necessary through the Southern Association of Colleges and Schools (SACS) for CTE programs offered through colleges.

Responding to Representative Bratcher's question, Ms. Slaughter said most CTE classes are half-day programs where students spend the remainder of the day in another school, depending on proximity and geography. The grant is intended to convert a technology center into a model that provides a true, all-day technical high school. For areas with greater distances, the use of virtual technology and skyping will help eliminate gaps relating to academic courses. Responding to a follow-up question from Representative Bratcher, Mr. Horseman said ATC principals serve under KDE; however, the district is reimbursed if a district employee works at an ATC. The expense of and expertise required to operate machinery and special equipment in technology centers is not feasible or affordable in every high school.

In response to Representative Bratcher's question, Mr. Horseman expressed concern about the hazards associated with certain industries as it relates to students. Certified welding inspectors observe, approve, and recommend a student to local companies. Other students have extensive training and gain transferrable skills that lead to careers with companies willing to provide more in-depth training. Relating to a follow-up question, Mr. Horseman said the benefit of all-day academies allow academic teachers to work side-by-side with technical teachers; allow students more classroom time, access, and opportunity; and eliminate time and money spent on transportation. Ms. Slaughter said the all-day model is designed to be a technical high school inclusive of all graduation requirements and learning of concepts and standards in industry and practice. Students respond well to the more contextual approach.

Responding to a question from Senator Higdon, Ms. Slaughter said the academies for Marion, Nelson, Larue, and Bardstown Independent are in the early phases of the planning grant after forming a partnership to build two all-day regional academies. The Launch Point Academies of Marion and Nelson Counties include some overlapping and some different programs. The academies will be implemented during the fall of 2019 and each site has a three- to five-year timeline for implementation. In response to a follow-up question, Mr. Horseman said KDE's priority is to provide opportunities and careers for students through a viable, statewide-unified system, incentivize districts, share resources, and add programs as funds become available. Senator Higdon said regional needs are best determined through local control of a specific area due to the unique needs among regions. Mr. Horseman said provisions for interlocal agreements will ensure the remaining 120 school districts not served by the 53 centers are included. He explained the governance board will allow input from various businesses and industries of feeder districts and through technical support and resources from KDE. He believes working together will garner the best results.

Senator Wilson said incentives, as outlined in 2017 Senate Bill 1, are geared toward schools receiving more credit for accountability scores in high demand industries; however, it is not a requirement. He said Bowling Green's ATC placement of 100 percent of its students has been the result of business and industry buy-ins through the donation of machinery, money, and supplies amounting to an excess of $500,000. He said while partnerships with companies are important, access to multiple CTE credentials, programs, and certifications are equally necessary. Senator Wilson is concerned additional dual credit requirements, especially for students with special needs, may create a burden on districts. Mr. Horseman said KDE wants to provide adequate information to ensure legislators can make the best informed decisions for students. Seven or eight options for graduation requirements can be weighed to determine the best course of action to take for being in a career or college pathway. Student personalization will benefit students in particular areas of study, and modifications may be necessary in the future for the development of specific career pathways. KDE desires to be realistic in terms of advancing students to be prepared for life's next step. Senator Wilson said equal access to multiple programs is important for higher graduation rates.

Representative McCool announced that the annual CTE summer program will be held July 23-26 in Louisville at the Galt House and invited all members to attend.

The next meeting of the CTE Task Force will be Wednesday, August 21, 2019, at 10 a.m. in Room 129 of the Capitol Annex.

There being no further business before the committee, the meeting was adjourned at 11:45 a.m.

## ALZHEIMER'S AND DEMENTIA WORKFORCE ASSESSMENT TASK FORCE

**Minutes of the 2nd Meeting of the 2019 Interim**

August 1, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Alzheimer's and Dementia Workforce Assessment Task Force was held on Thursday, August 1, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Deanna Frazier, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Deanna Frazier, Co-Chair; Senators Stephen Meredith and Reginald Thomas; Representatives Danny Bentley and Lisa Willner; Melissa Aguilar, Bill Cooper, Sherry Culp, Steven Davis, Buddy Hoskinson, Mackenzie Longoria, Andrea Renfrow, Mary Romelfanger, and Kelly Upchurch.

Guests: Steven D. Davis, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services; Sherry Culp, State Long-Term Care Ombudsman, Nursing Home Ombudsman Agency of the Bluegrass, and Denise Wells, District Long-Term Care Ombudsman, Nursing Home Ombudsman Agency of the Bluegrass.

LRC Staff: Dana L. Simmons, Lead Staff, and Becky Lancaster.

**Approval of Minutes**

A motion to approve the minutes of the July 2, 2019 meeting was made by Senator Meredith, seconded by Mary Romelfanger, and approved by voice vote.

**Evaluation of Current State of Long-Term Care Services**

Steven D. Davis, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services (CHFS), stated that there are different areas in which long-term care (LTC) is provided to individuals with Alzheimer's and Dementia. LTC typically starts at home with the assistance of family or an informal caregiver. The next level of LTC consists of a home health agency and private nursing services, including provider types that do not provide skilled nursing, which assist individuals in their homes or other residential settings,. A residential care community will generally provide assistance with supervision and limited supports. The next level is a nursing facility or a skilled nursing facility that provides intermediate care such as an Alzheimer's focused nursing home. The final level of LTC is a hospice provider. Medicare covers all hospice costs except room and board. Kentucky Medicaid covers room, board, and other services.

Mr. Davis stated that the National Center for Health Statistics confirmed that in 2016, 47.8 percent of nursing facility residents, 41.9 percent of residential care community residents, and 30.9 percent of adult day service center participants received care for Alzheimer's or dementia. In 2015, 44.5 percent of hospice patients and 32.3 percent of home health agency patients received care for Alzheimer's or dementia. There has been a dramatic increase in alternatives to nursing facility care in the residential care community setting due to the increasing costs of nursing facility care. Differing reimbursement structures depending on the level of care, avoidance of a nursing facility label, effective marketing with a controlled message by residential care providers, a flexible market with no certificate of need, significantly reduced regulatory burdens, the perception of greater resident independence, and a change in assisted living statutory definition in 2000, all contributed to the rise of the residential care. There have been significant differences in the approach nationwide for assisted living and other residential care settings. Most states define assisted living as a health care model, rather than a social model.

Effective on July 14, 2000, the Kentucky legislature amended the assisted living law by replacing voluntary certification with mandatory certification, developing additional standards, and moving away from a purely social model to a quasi-medical model. The current law still prohibits delivery of health services; however, some assisted living facilities have dedicated dementia units. Some facilities offer assistance with medication administration, Activities of Daily Living (ADL), Instrumental Activities of Daily Living (IADL), and provide nearly continuous supervision. Assisted living facilities no longer have the appearance of a purely social model. The course of illness is such that Alzheimer's and dementia clients will eventually need supervision, ADL assistance, and other supports due to the decline in cognition. Kentucky law does not fully embrace the provision of healthcare in an assisted living facility; although, many states do. Some states have moved past the purely private pay model to include covered services but not room and board. Kentucky is one of three states that do not provide any Medicaid funding for residential care.

Mr. Davis stated that Kentucky's assisted living standards do not adequately address the need for residential care for individuals who require limited health care supports but do not need high intensity nursing care, have an unstable medical condition, or require skilled care. Kentucky should modernize its residential community standards to enable individuals who enter care with nearly full cognition to age in place in a setting that meets their non-skilled needs. The focus should be on the continuum of care and should enable a resident to avoid discharge until clinically unstable or in need of high intensity nursing services. An option for change would be to combine current concepts in personal care homes and assisted living to create a single congregate care model that is tiered and focused on the provider's ability to manage care as the client ages in place.

Another option of care would be the extended congregate care model that could include a continued stay with exceptions to admissions criteria. The newly-designed assisted living provider type would share similarities with the existing assisted living and personal care home models but also include the provision of housing, meals, and one or more personal care services. Admission criteria would still require the resident to perform ADL with supervision if needed, be able to transfer with assistance if needed, be capable of taking medication unless the facility employs a trained nurse, not be bedridden, not be a danger, and not have any special needs that cannot be met by the facility. There would need to be statutory and regulatory adjustments to have these changes implemented.

In response to questions and comments from Mary Romelfanger, Mr. Davis stated that the Cabinet for Health and Family Services needs to boost telehealth programs. Telehealth is a great opportunity to fill some of the gaps for care. There is an initiative for the Department for Public Health and other areas to revitalize and modernize the telehealth concept. Telehealth could help in the limited mental health model to assist clients with mental health issues that reside in personal care homes. The clinical and psychiatric care are so different that the populations are not usually mixed unless there are no other resources.

In response to questions and comments from Senator Meredith, Mr. Davis stated that Kentucky does need another level of care and needs to more clearly define the scope of services that are offered in the other levels of care. Mr. Davis suggested reviewing the level of care below the nursing facility level. He stated that there is an infrastructure in place but redefining and tiering the levels of care could be reviewed before the next legislative session. The lower level revision could be handled in a short amount of time. Every level of care in LTC is exceeding or needing to exceed the scope of care that is in place. CHFS has been reviewing Florida's model of LTC for approximately a year and a half with limited staff. CHFS may want to create new standards according to the Florida model.

In response to questions and comments from Representative Wilner, Mr. Davis stated that Florida is a good model to review that has a four tiered program. CHFS could start the effort by putting personal care homes and assisted living under one tier and allowing patients to stay in one place to create a better continuum of care on the lower level. The workforce issue in a nursing facility differs from personal care and assisted living because there are not many heavy care clients in those homes. The crisis is with the workforce in the nursing facilities that have a multitude of complex care patients. With challenging standards and regulations, nurse aides do difficult work for low pay. CHFS would like to create supports and infrastructures outside of the nursing facility that will serve as resources for the nurse aides.

In response to questions and comments from Melissa Aguilar, Mr. Davis stated that capacity is difficult to change at the nursing facility level due to the certificate of need laws in place. It is difficult to move or create new bed capacity in LTC. New facilities that cater to memory care are being built in Kentucky. He stated that making lower level care more appealing to providers would increase capacity. There are more services that provide care, for example, adult day health programs, home health care, and private duty nursing services. However, there are laws that impact the ability of some providers. There is a critical issue with the workforce in the nursing facilities.

In response to questions and comments from Senator Thomas, Mr. Davis stated that regulations for personal care homes do not mention Alzheimer's or dementia and do not account for the condition of decline. Once a patient is in decline, a personal care home may not be the best place for that patient. Assisted living, which is not the health care model, does recognize special units that could be used for Alzheimer's and dementia, or hospice clients. There are potential problems because when units are locked down by regulations. Patients do not have the ability to self-exit in case of emergency when the patient is a danger to themselves. It becomes an unworkable solution for the patient. If assisted living was more of a model with a care continuum, it would be possible to create a facility that could focus solely on Alzheimer's and dementia patients. In the admission standards, there are protections built around assisted living that state a patient could not be a resident if they were bedridden unless it is a temporary condition. Senator Meredith stated that 14 days is a medical-necessity definition used for reimbursement.

In response to questions and comments from Mackenzie Longoria, Mr. Davis stated that in 2000, the authorization for units used for Alzheimer's and dementia patients were layered into a social model and created an inconsistency. A facility can be an Alzheimer's, and dementia unit, but staff are prohibited from providing any medical services to that patient. A patient must be referred out of the facility to have a medical service provided to the patient. It is the responsibility of the facility to advise all clients and family members when there is a limit of care for a patient. The only medical care that can be provided in assisted living is ADL, IADL, and assisting with medication. However, staff cannot leave a patient that is in distress that needs assistance or redirection. Under the law, the patient should be given a discharged notice. With Alzheimer's and dementia, a client may temporarily fall out of cognition or lose a range of motion but be able to come back. However, providers cannot provide assistance with that issue.

Buddy Hoskinson, Quality Assurance and Accountability Director, Department for Aging and Independent Living (DAIL), Cabinet for Health and Family Services, provided the committee with a fact sheet regarding the direct care workforce initiative from the Iowa Department of Public Health. He stated that it would be beneficial for Kentucky to create and provide a similar fact sheet.

Sherry Culp, State Long-Term Care Ombudsman, Nursing Home Ombudsman Agency of the Bluegrass, stated that a LTC ombudsman is a resident advocate for quality of care and quality of life of residents in LTC. The ombudsman provisions in the Older Americans Act (OAA) include investigating and resolving complaints, providing information to residents, families, and staff, and advocating for systemic changes to improve residents' care and quality of life. In financial fiscal year (FFY) 2018, Kentucky's ombudsmen investigated 6,025 complaints of which 27 percent were complaints about care. Complaints about staff represented 15 percent of the complaints. Many facilities do not want to admit people that may become medicaid eligible because the patients are entering without a payment source.

She stated that 50 percent of patients in LTC in Kentucky have Alzheimer's or a memory disorder. The Alzheimer's Association states that nationwide 70 percent of people with Alzheimer's or dementia have behaviors that are difficult to manage such as hitting, spitting, wandering, and cursing. Denise Wells, District Long-Term Care Ombudsman, Nursing Home Ombudsman Agency of the Bluegrass, stated that ombudsmen have a responsibility to act as the residents' voices. In 2018, care was the most widely cited complaint from residents. Failure to respond to requests for assistance represented eight percent of all complaints. The shortage of staff in a facility represented three percent of the complaints. Residents expressed that the nurse aides did not have enough training to provide adequate care.

Ms. Culp stated that PHI is a company that works to ensure quality care for older adults and people with disabilities by creating quality jobs for direct care workers. A 2018 PHI report stated that one in four Americans will be age 65 and older in 2060 and more than half will need long-term care at some point. The Alzheimer's Association declares that state officials can help the Alzheimer's crisis by increasing public awareness for early detection and diagnosis, increasing access to home and community-based services, building a dementia-capable workforce, and enhancing the quality of care in residential settings. Direct care workers assist older adults and people with disabilities with daily tasks, such as dressing, bathing, and eating. Direct care workers include personal care aides, home health aides, and nursing assistants. Nursing assistants also perform clinical tasks, such as blood pressure readings and assistance with range-of-motion exercises. She stated that nurse aides have some of the highest rates of injuries on the job.

Ms. Culp stated that it does not matter what laws and regulations are in place, if the care is from a for-profit or a not-for-profit organization, if the amount of money being paid is from an individual or paid by Medicaid, the experience of the older adult patient is determined by his or her interactions with the direct care worker. Nursing home residents throughout the country explained that the most important elements of quality in their day-to-day lives were the accessibility, attitude, and training of the direct care worker. The direct care workforce totaled 4.3 million workers in 2017. The home care worker is among the fastest growing occupations and have added one million jobs between 2016 and 2017, more than any other single occupation. However, wages for home care workers have remained stagnant in the last decade. One in four direct care workers is an immigrant, totaling one million workers nationwide. Immigrants are a valuable part of the direct care workforce. Men make up roughly half of the United States labor force yet only 14 percent work in LTC.

Direct care workers are a key segment of the eldercare workforce and would benefit from improved geriatrics training. In May, the Geriatrics Workforce Improvement Act was introduced in the United States Senate, paving the way for strengthening the health care sector's ability to support older Americans. The United States House of Representatives passed the Educating Medical Professionals and Optimizing Workforce Efficiency and Readiness (EMPOWER) Act which would continue funding for geriatric workforce enhancement programs that are based in home and community-based settings and nursing homes. There should be more employment support, peer to peer support, and effective supervision for nurse aides and other workers who work in LTC.

In response to comments and questions from Representatives Frazier, Ms. Wells stated that in Kentucky there is not a minimum staffing law for LTC. Research has been done to suggest that residents need 4.1 hours of direct care per day to avoid negative outcomes. The Centers for Medicare & Medicaid Services (CMS) website lists the average number of hours of direct care that each nursing home provides to patients daily and in Kentucky the average is approximately 3.9 hours per day.

In response to comments and questions from Melissa Aguilar, Ms. Culp stated that she does not work with programs that certify individuals to work specifically with patients that have Alzheimer's and dementia.

**Adjournment**

There being no further business, the meeting was adjourned at 12:00 PM.

## PUBLIC PENSION OVERSIGHT BOARD

### Minutes

December 17, 2018

**Call to Order and Roll Call**

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

Present were:

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

Other Legislators Attending: Representatives Derrick Graham and Jim DuPlessis.

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

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

**Approval of Minutes**

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

**Agency Participation Issues**

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

With regards to employer participation, Mr. Eager provided some background and reviewed previous legislative enactments relating to the matter. He noted that HB 62, which was passed in 2015, initially created the process by which certain agencies could cease participation and leave KRS. The process according to HB 62, which could take up to 18 months, started with an application, a cash deposit to cover needed actuarial analysis, and initial approval by the KRS board. Next, an actuarial valuation was conducted using the assumed rate of return, a cost was determined, the agency made a decision to leave or stay, and the agency could pay the cost as a lump sum or in installments over a 20-year period. In 2017, HB 351 adjusted the process by establishing a benchmark for the actuarially assumed interest rate used to calculate the cost estimate and by removing the installment payment option for agencies. In 2018, HB 362 froze the contribution rate for quasi agency employers in KERS nonhazardous at 49.47 percent for FY 2019 (versus 83.43 percent for every other employers) and also created a phase-in period for employers of the County Employees Retirement System (CERS) plan. Mr. Eager also discussed a 2018 legislative proposal that did not become law that would have offered quasi agencies a 40-year interest-free installment plan for paying the costs to cease participation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Eager reviewed two recommendations that had been approved by the KRS Board of Trustees. First, the board recommended that current provisions of HB 62 and HB 351 not be altered. Secondly, the board recommended adopting the option 2 approach to addressing the quasi agency participation issue. He stated that none of the options were optimal, but option 2 results in the least amount of risk of bankruptcy and payroll decline.

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

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

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

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

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

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

In response to a question from Senator Bowen regarding how many employers would be willing to pay benefit contributions on contract workers that are not receiving the benefits, Mr. White stated that a partial amount could be collected for the unfunded liability.

**Recommendations**

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

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

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

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

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

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

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

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

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

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

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

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

## PUBLIC PENSION OVERSIGHT BOARD

### Minutes

June 24, 2019

**Call to Order and Roll Call**

The 5th meeting of the Public Pension Oversight Board was held on Monday, June 24, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Dennis Parrett, and Wil Schroder; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Russell Webber, and Buddy Wheatley; John Chilton, Timothy Fyffe, Mike Harmon, and James M. "Mac" Jefferson.

Guests: David Eager, Executive Director, and David Harris, Chairman, Investment Committee, Kentucky Retirement Systems Board of Trustees, Danny White, GRS Retirement Consulting; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System; and Donna Early, Executive Director, Kentucky Judicial Form Retirement System and AC Donahue, Trustee for Judicial Form Retirement System; Bryan Sunderland, Deputy Chief of Staff and Legislative Director, Office of the Governor and John Chilton, State Budget Director.

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

**Approval of Minutes**

Senator Parrett moved that the minutes of the May 20, 2019 meeting be approved. Representative Miller seconded the motion, and the minutes were approved without objection.

**Investment and Cash Flow Quarterly Update – Kentucky Retirement Systems**

David Eager, Kentucky Retirement Systems (KRS) providing a summary of investment performance, as of March 31, 2019, for each of the pension and insurance plans across the fiscal year to date, 3-, 5-, 10-, and 20-year time frames. Mr. Eager pointed out that most of the plans had performed near their respective benchmarks and that staff expected the fiscal year returns to be approximately 5.5 percent depending on the specific plan. He cautioned that KRS may experience a more difficult period going forward, as the Federal Reserve (Fed) is expected to ease rates, which benefit equity markets and hurt fixed income assets. Given KRS has less equity and more fixed income than most peers, it could prove to be difficult period for plans.

Mr. Eager discussed cash flow for the first nine months of FY19 as compared to the same time period in FY18. He began with the

Kentucky Employees Retirement System (KERS) nonhazardous pension plan. He pointed out that a lower total of member contributions was due to a continued decline in payroll, while the significant increase in employer contributions was the result of the new and higher rates. Overall, he noted that KERS was experiencing a positive net cash flow for the first time in 15-16 years. For the County Employees Retirement System (CERS) nonhazardous plan, cash flow was very similar to the prior year and assets were effectively flat. He noted payroll had declined slightly and stated employer contributions were increasing as the higher rates are being phased-in over the next couple of years. Moving to insurance, Mr. Eager stated that net cash flow had improved, however, lower investment gains had impacted the change in assets for a few plans.

In response to questions from Representative Miller regarding what the plans expected funding ratio might be for the upcoming June 30, 2019 actuarial valuations, Mr. White responded that he expected the KERS nonhazardous fund to remain near its current 13 percent funded status. He noted that recent assumption changes would likely increase the unfunded liability from the prior year, but the increased contributions and asset gain would serve to offset. For the CERS nonhazardous plan, Mr. White estimated the funding ratio would likely dip a bit as a result of the assumption changes and the fact that employers are phasing into the higher contribution rates. Overall, across the board, a slight decline should be expected due to the new assumptions.

In response to a question from Representative Wheatley regarding the CERS nonhazardous pension fund's cash flow, Mr. Eager confirmed that the change in net position for CERS nonhazardous went from $350.8 million in FY18 to $1.2 million in FY19.

In response to a question from Representative Graviss regarding any incentives for employers to decrease payroll, both Mr. Eager and Mr. White both stated they were not aware of incentives, but given that pension costs are tied to total payroll, one way an employer can manage that cost is to manage payroll. In a follow up question from Representative Graviss regarding an alternative plan of allocating the liability proposed by KRS, Mr. Eager stated that staff believed allocating the liability cost separate from a percent of payroll method would serve as disincentive for employers from shedding payroll.

Representative DuPlessis stated that follow-up information had been provided to each member in their packets regarding the alternate plan outlined in May, which provided a comparison of estimated contributions for each individual quasi-employer under the two approaches.

In response to questions from Senator McDaniel with regards to adjusting the assumed rate of return in light of recent increased contributions and future expectations in the equity markets, Mr. Harris responded that there is a temptation to use the current scenario and market expectations to revise return assumptions, but this would be a challenge given the funding ratios of KERS and a need for more risky assets to reach a higher assumption. He noted that the increase in employer contributions was making a significant impact, but indicated that trend would have to continue for a few more years before the board would feel comfortable adjusting assumptions. In a follow up question from Senator McDaniel regarding the recent changes to the mortality assumptions, Mr. White responded that GRS had recommended an updated mortality assumption that was based specifically on actual KRS retiree experience, which also included an improvement scale into the future.

In response to a question from Representative Miller regarding how to determine and pay the unfunded liability portion of the plan, Mr. Eager stated there are two different calculations. First, the unfunded liability payment due must be calculated and in this step a plan has to decide whether to use a level percent of pay or level dollar method. Second, once you have the payment amount determined, a plan must determine if the employers want to make that payment based on their percent of the plans total payroll or by their share of the total unfunded liability.

In response to questions from Representative Graviss regarding if the portfolio might look to add more of the safer equity assets given the Fed's expected policy decision and outlook for those assets, Mr. Eager responded that ultimately that would be a decision of the investment committee, but that the target allocations do include a range where staff and the committee can have some flexibility. Representative Graviss expressed some concern that assets were not allocated conservative enough to protect the fund. In response to a follow-up question regarding how long the actuary's project out liabilities, Mr. White responded that cash flows are generally projected out over a 90-year period, while the liability projection covers approximately 30-35 years.

In response to a question from Senator Schroder with regards to when mortality assumptions have changed, Mr. White stated the assumptions were last changed during the 2013 Experience Study, and he noted that a member's assumed life expectancy was 2 years longer than in the past.

In response to a question from Representative Wheatley regarding the changes in mortality assumptions, Mr. White stated that contribution rates were estimated to increase about 4 percent due to the changes. In response to a follow-up question regarding how KRS retirees were living longer than the average citizen, Mr. White stated that demographics and characteristics of KRS members likely drove that experience, pointing out education, lifestyle, and life choices as examples.

Representative DuPlessis commented that looking at average life expectancy is a bit misleading due to the fact that national averages include younger populations as compared to a KRS population of retirees. He noted that actuaries have found that if someone lives past the age of 45 or so, the life expectancy is going to be higher than the overall 79-81 average. Mr. White stated that GRS looks at the retiree population starting at age 65.

In response to a question from Representative DuPlessis regarding how actual experience might impact next year's contribution rates, Mr. Eager stated that KRS expects returns to be very close to assumptions, maybe slightly less for the plans with a 6.25 percent assumption, but that contribution rates should not be impacted significantly due to investment performance. He did note that the new mortality assumptions will be incorporated in this valuation, so there will be an increase in rates due to those changes.

**Investment and Cash Flow Quarterly Update – Teachers' Retirement System**

Beau Barnes, Teachers' Retirement Systems (TRS), began his presentation discussing the pension investment performance as of March 31, 2019. He discussed the benchmarks and gross and net returns for the quarter, fiscal-year-to-date, 1-, 3-, 5-, 10-, and 20-year trailing time periods. He stated that the 30-year compounded gross return is 8.27 percent.

Mr. Barnes next reviewed cash flow for the pension fund through the first three quarters of FY19 and FY18. He pointed out cash inflows, outflows, and the total net plan assets across both time periods.

In response to a question from Representative DuPlessis regarding member and employer contributions, Mr. Barnes confirmed that members contribute 9.105 percent from their pay towards the pension fund, while the state's (employer) total contributions of $799,599,000 was the 13.1 percent statutory rate plus an additional amount needed to pay the full unfunded liability, which totals approximately 29 percent.

In response to a question from Representative DuPlessis regarding net cash flow, Mr. Barnes agreed that the pension fund experienced a negative cash flow of approximately $250 million before investment gains or losses. Mr. Barnes noted the additional contributions appropriated along with recent portfolio rebalancing tactics make the negative cash flow manageable.

In response to a question from Senator McDaniel with regards to the impact of fully funding the contribution rate, Mr. Barnes stated that the additional funds received from the General Assembly and Governor has not only allowed TRS to fully implement their funding plan, but has also served as a game changer for investments.

Mr. Barnes continued with an update on cash flow for the medical fund cash as of March 31 of FY19 and FY18. He discussed cash inflows, outflows, and the total net plan assets across both time periods.

Lastly, Mr. Barnes discussed the recently completed spring trustee elections and stated that 13,637 members voted, which was an increase of approximately 1,000 members from the previous year. The cost per ballot was 56 cents. Mr. Barnes stated that with the helpful guidance of Representative Miller, TRS initiated for the first time electronic voting through the TRS member portal so members could vote in an encrypted manner.

In response to questions from Representative Wheatley regarding funding levels, Mr. Barnes stated that the pension fund as of June 30, 2019, was 57.7 percent funded, and the medical fund was 36.3 percent funded. In response to a follow up question, Mr. Barnes stated that the TRS health care fund is better funded when compared to other states, of which many are pay-as-you-go plans.

Representative Graviss inquired whether KRS could provide a 30-year return for KERS. Representative DuPlessis requested Mr. Eager email the 30-year return information to the members.

Representative Graviss commented that it is noticeable that TRS is earning higher yields, has more money invested in safe equities, and less money in private equities and alternatives than KRS. He expressed his concern as to why KRS' investment committee was not investing more like TRS. Representative DuPlessis responded that Mr. Eager had testified during previous meetings that KRS would take more risk if their unfunded liability was closer to that of TRS or if the plan had more assets.

In response to a question from Senator Schroder with regards to TRS mortality rates, Mr. Barnes stated the assumptions were changed during their Experience Study four years ago. The next study will begin next year.

In response to a question from Representative Miller with regards to payroll growth, Mr. Barnes stated that the board currently utilizes an assumption of 3.5 percent.

In response to a question from Representative DuPlessis regarding how actual experience might impact next year's contribution rates, Mr. Barnes stated he doubted TRS would have 3.5 percent for FY19, although TRS is experiencing positive payroll growth. He indicated there could be some increase due to experience and stated that the budget request that TRS makes will reflect a payroll growth that is less than anticipated.

**Investment and Cash Flow Quarterly Update - Judicial Form Retirement System**

Donna Early, Judicial Form Retirement System (JFRS), joined by A.C. Donohue, Trustee, began her presentation with the performance overview for the defined benefit and hybrid cash balance plans for both the Judicial (JRP) and Legislators' (LRP) Retirement Plans. She presented charts for each plan with information on the total portfolio, total portfolio net of fees, total equity, total fixed income, and cash and equivalents.

Next, Ms. Early presented the statement of changes in net position for both JRP and LRP. She discussed the cash inflows, cash outflows, and net plan assets for FY19 and FY18.

In response to a question from Representative DuPlessis, Ms. Early stated that the $1.6 million reduction in the cash inflow employer contributions for the LRP for FY 2018-2019 was due to the appropriations being taken out in the current budget. Ms. Early noted that the lack of appropriations will have an impact in the future.

In response to a question from Senator Parrett, Ms. Early provided the approximate number of members in each of the four plans administered by JFRS: the LRP defined benefit plan, the LRP hybrid plan, the JRP defined benefit plan, and the JRP hybrid plan. She explained that for the LRP, the plans total membership does not total 138, since some legislators participate in other systems (i.e. KERS, TRS). She said that she would provide exact membership numbers as a follow up after the meeting.

Representative Miller commented that he was a strong proponent of not funding the legislative plan because he thought it looked horrible that the Legislators' Retirement Plan is funded so well compared to the KERS plan. Ms. Early commented that in defense of the funded status, it has been a result of the remarkable investments. She also noted that legislators have never contributed more than what the statutory formula provided. Mr. Donahue added he believes it is important to continue funding what is required to keep the funds fluid.

**Discussion of BR 9/BR 19 (Draft Proposal)**

Bryan Sunderland, Office of the Governor, started his presentation with a few opening remarks and reviewed a timeline of how the plan was developed. Mr. Sunderland stated that BR 9 was made available to the public on May 1, 2019, which was two full months prior to the end of the fiscal year. He stated that multiple briefings and meetings had been held with both stakeholders and legislators. He noted that a copy of the bill, summaries, side-by-sides, the actuarial analysis, and other explanatory material was provided to these interested parties, along with multiple endorsement letters from quasi-governmental employers and KRS. Mr. Sunderland stated that his office worked with KRS and had taken input from a number of legislators throughout the process.

Mr. Sunderland outlined the difficult challenge of trying to balance the needs of quasi-governmental employers, their employees, as well as the retirement system. He noted that each quasi-governmental entity faces different needs, financial conditions, and underlying employee demographics. He stated that some wish to stay in the system, while some wish to exit the system. Some are willing to pay by installments, while others wish to pay by lump sum. Others wish to allow current employees to stay in the system. In short, Mr. Sunderland commented that one size does not fit all.

Next, Mr. Sunderland reviewed past legislation relating to cessation of participation from the retirement system. He referenced HB 62, which was passed in 2015 and signed by then Governor Beshear, as the proposal that set the framework and allowed participating employers to exit the plan. In 2017, the General Assembly returned to pass HB 351, which made some changes relating to the process for payment of the actuarial cost to exit the system (lump sum only), but maintained an employer's ability to exit the system. Mr. Sunderland then explained the conflict between the General Assembly's support for and Governor Bevin's strong objection to HB 362, which would have allowed universities, community colleges, health departments, and other entities to cease participating in the retirement systems during a defined window, provided the ceasing employers paid the actuarial costs of cessation through equal installments with zero interest over a 30 year period.

Moving to the current proposal, Mr. Sunderland outlined that BR 9, which is now BR 19, provides for a one year cost relief to allow quasi-governmental employers to determine which solution is best for their individual situation. If the employers decide to remain in the system, they have one year to financially prepare. If the employers decide to opt-out, they can with a lump-sum option, installments that are phased-in for affordability, and they can decide to move all employees to a new plan or leave Tier 1 and Tier 2 employees in the current system. Mr. Sunderland stated that no employer would be forced out of the pension system.

All remain in KERS nonhazardous unless the employer takes action to exit. Each employer will have one year to plan and budget and will receive all financial information prior to having to make a decision. He noted that no employer could elect to opt-out prior to April 1, 2020, which falls after the General Assembly's next budget session where additional decisions regarding financing may be made.

As a result of discussions between the Governor's staff and legislators, Mr. Sunderland explained that a few changes to the original BR 9 proposal had been made and referenced a letter from the Governor that had been sent on June 5th outlining four primary changes: (1) replacing Section 7 with a non-severability clause; (2) adding language that would require the pledge of assets in case of default; (3) adding language that would stop any additional accrual of future benefits/service credit for employees still participating in KERS, if an employer failed to pay; and (4) adding specific language to ensure the 2020 General Assembly had the opportunity to revisit the issue addressed by the Act and correcting of the indemnification clause. The resulting draft is BR 19.

Mr. Sunderland discussed the process employers who make the decision to exit would follow and noted they could do so either by paying their full actuarially accrued cost by lump sum or installment payments. If the employer chose to completely exit and all employees moved to a new plan, described as a hard freeze, and the employer decided to pay by lump sum payment, the actuarially accrued cost payment would be based on a 4.5 percent rate of return. If the employer choose a soft freeze, by leaving Tier 1 and Tier 2 employees in KERS, the cost payment would be based on a 3.5 percent rate of return to account for the additional risk to KERS. All employers choosing the lump sum option would have until June 30, 2021, to make full payment and would incur an annual 5.25 percent interest on pension costs and 6.25 percent interest on health costs until the sum was fully paid.

For employers choosing to exit and pay in installments, Mr. Sunderland reviewed the options. First, employers choosing to pay their full actuarially accrued liability in installments over 30 years or less and opting for a complete exit of all employees would use a 3.5 percent rate of return, while a soft freeze option where legacy employees remained in the system would result in a 3.0 percent rate. Employer installments would be calculated as the higher of the employer's FY19 contribution or its 60 month average payroll multiplied by 49.47 percent, plus a 1.5 percent annual increase for 30 years or until fully paid. Second, for those ceasing entities who would not fully pay off their liability in 30 years, Mr. Sunderland stated the cost would assume the same rates of return, but that employers who chose the hard freeze would fully exit the plan after 30 years of installments regardless if they left behind a liability or not. However, if employers choose the soft freeze option, their full liability would have to be paid and their initial starting rate would be increased to ensure payment was fulfilled over the 30-year period.

Mr. Sunderland discussed the desire to provide a proposal with multiple options that could be tailored to meet each employer's specific needs. He pointed out the various options, which included employers staying in the plan, choosing to exit with one of two lump sum options, or utilizing one of the installment options.

Mr. Sunderland reviewed three financial projections provided by GRS Consulting. First, he reviewed a distribution of each quasi-employer and the percent of the actuarial cost they would finance under the hard freeze option. He noted that 54 out of the 113 employers would fully pay their liability over the 30 year period, while the remaining employers would leave behind a portion of their full cost. Secondly, he reviewed a distribution of the initial installment rate that would be required for employers choosing the soft freeze installment option. Under this option, each employer would have to fully pay the cost over 30 years and he noted that only 28 out of the 113 employers would do so with a starting rate of 49.47 percent. He pointed out that 12 of the remaining 85 employers would see their starting rate increase to 70-75 percent in order to fully meet their obligation over 30 years. Third and last, Mr. Sunderland discussed a summary of the financial impact of the two lump sum and two installment options. He noted that the hard freeze option resulted in more relief as employers were being priced at a higher discount rate relative to the soft freeze option.

Mr. Sunderland closed his presentation by pointing out what the plan does and does not do. The plan does not force any employer out of the pension system, and it does not take away any earned benefits or change any benefit structure. He emphasized it does not affect other plans, and it does not prevent the 2020 General Assembly from making changes or making supplemental appropriations to any quasi-governmental entity. Instead, he stated the plan does provide immediate relief and time for employers to prepare and decide a course of action. The plan does provide future options and allows employers to do what is best for their employees. The plan balances the need for services and the need to pay for the benefits promised, and it provides time for the 2020 General Assembly to make adjustments or make appropriations.

Mr. Chilton commented that the financial situation quasi-governmental entities are facing is severe and was recognized when the General Assembly gave a one-year reprieve on the increased rate, which resulted in $132 million not going into the system. Mr. Chilton noted that the proposal provides another year of reprieve and gives time for all stakeholders to process the financial information and get a clear understanding of the true financial situation for each employer. Mr. Chilton stated that this plan adds some additional options for affordability and also pointed out that there are subsidies that may be provided in the future. He stated that in the current budget there is almost $50 million of subsidies going to these organizations to enhance their ability to make these payments. Lastly, Mr. Chilton stated that all the groups that represent the organizations that will be benefited have supported this measure.

Representative Graviss commented that he and the minority caucus had been working on two alternative options that he had requested to have added to the agenda and presented. Representative DuPlessis responded that given the Governor was the only individual who could call a special session, the chair had decided to focus the current meeting on allowing members to hear the Governor's proposal. Representative DuPlessis noted that he and Rep. Graviss had been working offline and had shared some ideas and commented that the Governor's proposal would still give legislators three months to pass their own legislation.

In response to questions from Representative Graviss regarding the addition of a non-severability clause, Mr. Sunderland stated the proposal was a comprehensive solution, and Section 7 of the bill draft ensures that all the provisions remain together. In response to a follow-up question regarding the need for only 51 votes to pass, Mr. Sunderland stated that as a result of the emergency clause included in the bill, a total of 51 votes are required. He expressed a belief that the proposal was not an appropriations bill, but stated that prior appropriations bills had been passed with less than 60 votes.

In response to a question from Representative Wheatley in regards to whether the CERS would be impacted, Mr. Sunderland expressed a belief that the bill was narrowly crafted for the quasi-governmental groups and regional universities. In response to a follow-up question regarding specific language included in the draft, Mr. Sunderland suggested that the provisions had been included in previous legislation in 2015, but agreed that staff would look into this language again. In addition to a follow-up question regarding what type of plan employers who had exited were using, Mr. Sunderland stated he was not aware of any employers who were utilizing a defined benefit plan.

In response to questions from Senator

McDaniel regarding the differences between BR 9 and BR 19, Mr. Sunderland stated that the only changes were the ones he had identified during the presentation. In response to a follow-up question regarding employee-based lawsuits and the pending Seven Counties withdrawal from KRS, Mr. Sunderland stated that he is not aware of any lawsuits regarding a breach of the inviolable contract, but added that the Seven Counties situation is exactly what the Governor's office is trying to prevent. Senator McDaniel further commented that the pension plan is a multiemployer plan, and each of these quasi-governmental employers opted in KERS via an executive order. He stated that if an entity offers a benefit, it needs to be able to pay for that benefit and, if not, the liability cannot be thrown back on to the Commonwealth, which also has obligations to its employees.

In response to a question from Representative Miller regarding how many counties had maxed out their local tax rates, Mr. Chilton stated that he is unsure but said he would provide a list of those who could raise their local tax.

In response to a question from Representative Graviss regarding the inviolable contract, Mr. Chilton stated the proposal does not impact any current or accrued benefits, but only affects benefits on a go-forward basis. Mr. Sunderland added that he would refer to the May 8, 2019 legal memorandum that was forwarded to all members of the General Assembly.

In response to a question from Representative Wheatley regarding the inviolable contract, Mr. Sunderland stated that, while he was not an attorney, it was his understanding the contract was between the Commonwealth and the individual employee. He added that the question is whether or not the contract guarantees benefits not yet earned or guarantees that an employee has the ability to earn benefits in the future. In a follow-up question regarding whether any liability with regards to inviolable contract challenges would transfer to the employer exiting, Mr. Sunderland stated that was how he understands the bill, but noted again he was not an attorney.

In response to a question from Representative Graviss as to whether an actuarial analysis had been conducted, Mr. Sunderland and Mr. White stated that an analysis had been provided on BR 9, and the changes discussed during the presentation would not have a material impact on the analysis. In response to follow-up questions regarding the requirement for collateral, Mr. Sunderland noted that in a bill that tries to make the best out of a tough situation that language is difficult and not necessarily great. He stated that some quasi-governmental entities have expressed some concern about that provision of the bill draft, but that some legislators believe that this particular provision was necessary to protect the pension system. Lastly, in response to Representative Graviss regarding the contribution rate for quasi-governmental employers who remain in KERS, Mr. Sunderland stated their ARC would increase to the full 84 percent with an expected increase of 4 to 5 percent as a result of recent mortality assumption changes.

With no further business, the meeting was adjourned.

## PUBLIC PENSION OVERSIGHT BOARD

### Minutes of the 2nd Meeting of the 2019 Interim

March 25, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Public Pension Oversight Board was held on Monday, March 25, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Dennis Parrett, Wil Schroder, and Mike Wilson; Representatives Joe Graviss, Jerry T. Miller, Phillip Pratt, Russell Webber, and Buddy Wheatley; J. Michael Brown, John Chilton, Timothy Fyffe, Mike Harmon, and Sharon Mattingly.

Other Legislators Attending: Representative Derrick Graham.

Guests: Gary Harbin, Executive Secretary, Teachers' Retirement System; Brad Gross, Jennifer Black Hans, and Bo Cracraft LRC Staff.

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

**Approval of Minutes**

Representative Pratt moved that the minutes of the February 25, 2019 meeting be approved. Senator Parrett seconded the motion, and the minutes were approved without objection.

Senator Higdon invited Gary Harbin, Executive Secretary, Teachers' Retirement System (TRS), to introduce himself to the newest members of the Public Pension Oversight Board. Mr. Harbin stated that he is a CPA and has been with the TRS for the past 20 years. He thanked the board and the General Assembly for the legislation that passed this session and stated that TRS should be able to get back into private equity with the passing of Representative Miller's bill. Mr. Harbin stated that private equity is an asset class that returned 19 percent net of fees in 2018, and it will allow TRS with an allocation of 7 percent to keep pace with other pension plans that have an allocation of 15 percent in comparison. Mr. Harbin stated that, most importantly, this is the first budget that has fully funded both the pension and medical plans since he has been with TRS, which allows TRS to invest more freely, it takes care of cash flow needs, and allows the system to be maintained in a more proper fashion.

In response to a question from Senator Higdon, Mr. Harbin stated the only issue he foresees in the upcoming year is moving the assumptions, which TRS will be looking at this year. TRS will look at both the payroll growth and the assumed rate of return, which is looked at every five years. He discussed a study by the National Association of State Retirement Administrators (NASRA).

Representative Miller commented that the most recent NASRA study showed a downward trend on assumed rates and for the median it is 7.25 percent and the average is 7.27 percent. Mr. Miller also mentioned that payroll growth over the last 10 years has been 1.7 percent. Mr. Harbin confirmed that TRS is still using 3.5 percent.

In response to questions from Representative DuPlessis, Mr. Harbin stated that the assumptions should not be changed too often due to asset allocations being based on those assumptions. He also stated that TRS does change the asset allocation on an annual basis so the investments are not impacted by the actuarial assumptions. Answering a follow up question, Mr. Harbin stated that the TRS board and staff has been stable and excellent, with low turnover and some of the lowest administrative costs in the nation with good long term investment performance. He stated that TRS has two investment experts serving on the board and regularly consults other investment professionals. Mr. Harbin stated that the makeup of the board is totally subject to the control of the General Assembly.

In response to questions from Representative Graviss, Mr. Harbin stated the assumptions will be reviewed in 2020. He confirmed that assumptions are reviewed every five years and independent actuarial audits conducted every ten years. In response to a follow up question regarding the timing of the assumptions study after the 2020 budget session, Mr. Harbin stated the adjustments to assumptions are long-term and intended to address the needs of the system for the next 30 years. He also stated that there is nothing that would prevent the Governor or General Assembly from providing more funding for TRS. Representative Graviss asked if TRS could supply the General Assembly with projections beyond one year of what the costs and participants would look like under the current assumptions.

In response to a question from Senator Higdon, Mr. Harbin stated the minimal payment for the 2020 budget is already known because it was based on the 2017 review, which gives the legislators plenty of notice to know if additional funding is required.

Representative Miller commented on assumptions, saying that by using a 3.5 percent payroll assumption when for the last 10 years it was actually 1.7 percent, and by using a 7.5 percent assumed rate of return when the national average is 7.25 percent and trending downward, is not TRS is doing a disservice to its members. He also said that the General Assembly should accept the responsibility for the real shortfall by legislating level dollar funding. Mr. Harbin stated he would also support level dollar funding if it was possible, and that TRS would take additional money if the budget would allow it.

In response to questions from Representative Wheatley, Mr. Harbin explained that state law provides that the actuary sets the assumptions, and the board shall approve the assumptions established by the actuary. During the process to set the assumptions every five years, the board has discussions with and receives input from the actuaries. In response to a follow up question, Mr. Harbin stated that the payroll growth over the last 30 years averaged above 4 percent.

In response to a question from Representative Pratt, Mr. Harbin stated that TRS uses actuaries that are independent, professional actuary firms, just like the CPA firms used for the audit.

**Legislative Update**

Brad Gross and Jennifer Black Hans, LRC Staff, presented the 2019 legislative update. Mr. Gross stated that most of the bills that have passed to date specifically deal with issues of retired reemployed members of the Kentucky Retirement Systems (KRS). The presentation featured bills passed, bills for possible concurrence, bills introduced of note, and all pension bills introduced in the Senate and House.

Mr. Gross started with some background history on retired reemployed members under state law. He stated that, in a 2008 special session, the General Assembly passed HB 1, which made significant changes to breaks in employment and how things are impacted when somebody retires and comes back to work at KRS. Specifically, if a retiree at KRS is reemployed on or after September 1, 2008, there is no second retirement account. Also, the employee does not have to contribute to the systems because he or she is not earning a benefit. However, HB 1 required the employer to continue making the contribution on behalf of the reemployed member and at the established rate in order to help pay down the unfunded liability. In the case of retiree health care, which was provided to retired reemployed members by the retirement systems, state law provided that, if that retiree took health insurance coverage through the systems, the employer was still required to reimburse the system for the cost of that member's health care. There were also some federal issues in or around 2008, which had to be addressed by state law. Specifically, state law clarified what constitutes a prearranged agreement between the retired reemployed member and the same participating employer from which the member retired. Under this scenario, there is the potential for a voiding of the retirement benefits, meaning that it is as if the employee never retired, and the employee will be required to pay back the retirement benefits that were paid.

Mr. Gross reviewed bills that have passed in regards to KRS retired reemployed provisions. HB 55 creates a legal assumption as to prearranged agreements and specifies the voiding of retirement for an elected official which retires from KRS and is re-elected to the same office within 12 months of retiring. HB 381 relates to retired reemployed police officers at universities. It creates an exemption for the universities so it is not required to pay the employer contribution for pension and retiree health on certain officers reemployed to specific positions that are limited in number.

Senator Higdon commented that at some point the issue needs to be revisited regarding employers of retired officers not paying the full rate. He explained that the systems should still recoup the normal cost.

Mr. Gross continued with HB 419 relating to the process for retired reemployed members and their employers to comply with KRS verification regarding prearranged agreements or employment as an independent contractor. The bill provides that there is no prearranged agreement if the reemployment occurs 12 months or later from the date of the retirement. HB 419 should contribute to reducing paperwork between the parties and KRS.

In response to a question from Representative Miller, Mr. Gross confirmed that HB 381 did not change current state law as it applied to retirees which retain to their local elected positions, for which it does not earn retirement after it retires from a participating agency in KRS.

Ms. Hans reviewed bills passed regarding KRS and TRS housekeeping and the ethical requirements for investment managers. HB 80 relates to KRS housekeeping and permits KRS to use electronic ballots for trustee elections and synchronizes the elections for the two County Employees Retirement System (CERS) trustees. HB 489 relates to KRS and TRS ethical requirements for investment managers and adopts additional conflict of interest provisions. Mr. Gross reviewed SB 107 that passed and provides for the automatic enrollment of state employees in a 401(k) plan administered by the Deferred Compensation Authority.

Mr. Gross discussed HB 358, which had passed both chambers with different versions. HB 358 relates generally to the cessation of participation in the Kentucky Employees Retirement System (KERS) by universities and quasi-governmental entities by a date certain. Both versions also extend the freeze on the employer contribution rate for those quasi-state agencies in KERS already receiving the lowered rate in fiscal year 2018-2019. The reduced rate would be maintained at 49.47 percent of pay in fiscal year 2019-2020.

In response to a question from Representative Wheatley, Mr. Gross stated that the quasi-governmental entities participating in TRS are statutory. When the CERS was created, quasi-governmental entities participated as a voluntary opt in system, but once in, it had to remain in. For KERS, the Governor issues Executive Orders often at the request of the entity to participate and, more recently, final approval is with the KRS board of trustees.

In response to a question from Representative DuPlessis regarding the Senate's version of HB 358, Mr. Gross stated that, if a quasi-governmental employer were to opt back in to KERS, the employer would have to pay 83.43 percent of pay within the next budget cycle absent future action by the legislature.

In response to questions from Representative Graviss, Mr. Gross confirmed with Dave Eager that approximately 9,000 employees in KERS could be impacted by HB 358. In response to follow up questions, Mr. Gross stated that policy issues do exist regarding the absence of an installment period and specifics regarding what enforcement mechanisms KRS would have to ensure timely and continued payments. Representative Graviss commented that these questions concerning the bill could leave KRS and the remaining participating employees holding the bag for the nonpayment.

In response to a question from Representative Miller, Mr. Gross stated that, under current law, if an agency has voluntary cessation, its employees stop participating as of a date certain and the employer ceasing participation pays the actuarial bill as determined by the KRS actuary.

In response to a question from Ms. Mattingly, Mr. Gross stated that under current cessation provisions, whatever an employee accrued to cessation date is still in the system. Under some of the proposals related to HB 358, some employees could elect to continue participating in KERS.

Senator Higdon commented that, if an employer ceases participating in the system, the employee can take another state job and pick up their retirement where it left off.

Mr. Gross discussed in summary fashion SB 41, which passed the House with a House floor amendment extending the rate reduction for quasi-governmental entities, and SB 162, relating to school resource and security officers. Finally, Mr. Gross noted bills that are still pending: HB 504 relating to TRS pension reform, HB 505, which includes level dollar funding for TRS, and HB 525, proposing to change the TRS board composition. On that, Mr. Gross concluded staff's legislative update presentation.

David Eager, Executive Director, KRS, was asked to join staff to answer some questions from the board members.

In response to an earlier question from Representative Graviss regarding HB 358, Mr. Eager stated that KRS is internally analyzing whether it could garnish funds that might otherwise go to agencies from the state through the general fund. Mr. Eager stated it was his belief that KRS can intercept those funds. Mr. Eager also stated that universities continue to outsource positions and reduce their contribution rates, but the liability for KRS does not go down and is also absorbed.

Representative Graviss stated that there were still outstanding questions regarding HB 358, particularly relating to the inviolable contract issues for employees that are questionable if an entity opts out. Later during the meeting, Mr. Gross explained the history of the original cessation statute, 2015 RS HB 62, and that the systems opined that it did not violate the contract. However, an agency interpretation of legislation does not prevent a party from pursuing litigation.

At the request of Representative Graviss, Mr. Eager said that KRS could provide more specific data regarding the employees that could be impacted by HB 358. He also advised that there is about a $3 billion liability from quasi-governmental entities opting out with roughly one-third of it being for universities, one-third for public health, and one-third for mental health.

In response to follow up question from Representative Graviss, Mr. Eager stated that the actuarial analysis on cash flow assumes that every agency would opt out. Under the lump sum option, KRS would receive a substantial amount of money in the third year. Under the installment option, there is no cost flow projection at this time.

In response to a question from Senator Higdon concerning a quasi-governmental entity opting out of the current system (Tier 1 & Tier 2), he asked if it would be an advantage to KRS if the entity created a new retirement system in Tier 3. Mr. Eager stated he was not sure of the legal aspect, but that there has been discussion that the entity could work with the deferred compensation system to set up plans.

Mr. Eager commented on other aspects of the bill, including that the installment payments that are driven by a contribution rate based on the 2019/2020 valuation will be harmful to KRS; that the actuaries suggest that there are agencies that will never pay the full actuarial cost over installments with no specific end period; and that with at 13 percent funded level, KRS should not be the bank for the unsecured installment loans.

In response to a question from Representative Graviss, Mr. Eager stated that KRS' position has not changed that KRS is financially neutral other than the $121 million for the one year delay. The perception is that the universities are in a more stable position with the ability to raise revenue through tuition and other sources.

**Biennial Investment Review**

Bo Cracraft, LRC Staff, provided a semi-annual investment review. He started with asset allocation, generally, and explained, that how a plan chooses its investments, drives 90 percent of returns. Mr. Cracraft gave a brief description of the traditional and alternative asset classes with the average peer percentages. He then reviewed the market performance of the components of those asset classes and did a comparison between 2017 versus 2018. Next, he provided a review of the current allocations of the systems' asset classes detailing the percentages under each asset class for each of the systems. He noted that public equity returns were low and private equity returns were the strongest performing asset class.

Mr. Cracraft discussed investments for each of the pension plans for the fiscal year to date, 1-, 3-, 5-, 10-, and 20-year rate of return percentages. He also compared the plans' performance to the peer groups' median returns for the 1-, 3-, 5-, and 10-year snapshots.

Mr. Cracraft cautioned that it is difficult to grade performance within a single time snapshot. As an example, Mr. Cracraft discussed specific performance as compared with a one month difference. He stated that December 2018 was one of the worst Decembers on record. On December 24, 2018, the S&P 500 fell by almost 3 percent, and it has never fallen more than 1 percent on that particular day. He stated that January 2019 performance came back strong and was up approximately 8 percent. Mr. Cracraft provided a chart that shows changes from one month to the next for the systems. He explained this is why the actuarial and valuation professionals smooth the returns to obtain a more accurate performance review.

In response to a question from Representative DuPlessis, Mr. Cracraft stated he was not aware of any studies regarding whether the Kentucky systems could benefit by investing in the state park systems, such as how the teachers' retirement in Alabama built and developed the Robert Trent Jones golf courses both within and out of the state. He noted that Alabama is an outlier with these investments and even had ownership of an airline at one time.

In response to a question from Representative Graviss, Mr. Cracraft stated that he had not personally run the numbers at 5.50, 5.75, and 6 percent for KERS nonhazardous, but that this information could be found in the sensitivity analyses conducted as part of the actuarial valuations for both TRS and KRS. He noted that comparing assumptions at this level require the analysis of an actuary.

Mr. Cracraft continued with his presentation showing recent changes with asset allocation for all systems. He stated that TRS did sell equity assets during the third quarter.

Under investment return assumptions, Mr. Cracraft stated that NASRA conducts an annual survey that shows change in median and average public pension plan investment return assumptions. The updated chart shows that the median has now dropped to 7.25 percent.

In response to a question from Representative DuPlessis, Mr. Cracraft stated that if the Federal Reserve raises interest rates, the investment market returns should also rise, but on the flip side there will be an impact as a result of inflation growth. With no additional questions, he concluded his presentation.

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

## PUBLIC ASSISTANCE REFORM TASK FORCE

### Minutes

July 8, 2019

**Call to Order and Roll Call**

The 1st meeting of the Public Assistance Reform Task Force was held on Monday, July 8, 2019, at 3:00 PM, in Room 131 of the Capitol Annex. Representative David Meade, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative David Meade, Co-Chair; Senators Whitney Westerfield and Max Wise; Representatives Nima Kulkarni and Russell Webber; Elizabeth Caywood and Bill Wagner.

Guests: Anne-Tyler Morgan, Member, McBrayer, PLLC; James Ziliak, Ph.D., Gatton Endowed Chair in Microeconomics and Director, Center for Poverty Research, University of Kentucky; Douglas Beard, Director, Cabinet for Health and Family Services; and Laura Begin, Liaison, Cabinet for Health and Family Services.

LRC Staff: Chris Joffrion (lead staff), Ben Payne, Sean Meloney, Becky Lancaster, Kate Talley, and Christy Young.

**Charges and Duties of the Task Force**

Representative Meade stated that the charge and duties of the Public Assistance Reform

Task Force shall be to specifically examine the effectiveness of establishing work and community engagement requirements for Supplemental Nutrition Assistance Program (SNAP) and Medicaid beneficiaries and to recommended protocol for implementation. The task force shall also examine the effectiveness of a substance abuse screening program for applicants and recipients of public assistance who have a felony or misdemeanor history of substance abuse and examine the effectiveness of requiring all welfare benefit cards to include photo identification. The task force will research and submit its findings and recommendations to the Legislative Research Commission in November.

**Introduction of Task Force Members**

Each member of the task force introduce themselves. Representative Meade stated that the task force would hear testimony from many qualified individuals to help gather as much data as possible.

**Need for Public Assistance Reform**

Anne-Tyler Morgan, member, McBrayer PLLC, stated that although assistance is sometimes needed by families, the goal is to become self-sufficient, but that some families or individuals may need assistance for a longer period of time.

In the United States, the current welfare system is comprised of approximately 100 different federal programs. While the system does give assistance to individuals who are currently in need, it does not offer them any training for the future, and eligibility rules require that recipients not have any assets in order to receive benefits. Recipients are also penalized through high effective marginal tax rates which makes it very difficult to get ahead because as recipients improve their financial status, the benefits are lessened or taken away. Changes need to be made to help recipients receive the help they need while improving their financial situation. Federal rules and requirements limit what can be changed or reformed in Kentucky. What can be done is to reform administration.

Ms. Morgan discussed three programs that were addressed in HB 3 from the 2019 Regular Session are Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and the Kentucky Medicaid Program. TANF was created through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. She stated that the challenges with TANF include that some individuals remain in the program for long periods of time or they return to the program due to recurring financial difficulties. Federal law states that TANF funds can provide assistance to needy families so that children may be cared for in their own homes or the homes of relatives. TANF funds can also be used to promote job preparation, to prevent or reduce the occurrence of out-of-wedlock pregnancies, and to encourage the formation and maintenance of two-parent families.

According to the most recent fiscal year report provided by the U.S. Department of Health and Human Services (HHS), 64 percent of this funding is spent on basic assistance, 11 percent on work training and education, 14 percent on child care, 5.4 percent on program management, 3.9 percent on work supports and support services, and 1.8 percent on fatherhood and two-parent family programs. Kentucky is one of only two states that has devoted the majority of its TANF funds to basic assistance in this fiscal year. Ms. Morgan asked the task force to study the shortcomings associated with current TANF funding allocations and how allocations could be improved. She suggested that the task force consider recommending 25 percent of the program funds for education and training programs and work programs that help families have long-term, sustainable jobs, 25 percent for work and supportive services such as transportation or childcare, 25 percent for childcare needed to help low-income parents establish and maintain employment, 15 percent for basic assistance, 10 percent for short-term assistance, and 5 percent for program maintenance. These recommendations, according to Ms. Morgan, are consistent with Federal Law and with the comprehensive five year TANF reauthorization bill that was recently approved by the U.S. House Ways and Means Committee.

Ms. Morgan stated that in 2016, Kentucky's share of administrative cost to support the SNAP program exceeded $60 million. In the same fiscal year, there were 408 positive post-certification investigations which lead to $2.3 million in SNAP benefits fraud discovered by the Department for Community Based Services (DCBS). In 2017, the SNAP error rates nationwide exceeded 6 percent. The photo ID recommendations found in HB 3, and discussed how concerning the photo ID only one state, Massachusetts, currently uses the photo ID system. The program has cost Massachusetts a great deal of money and has several drawbacks. One drawback, using a photo ID will limit which family member can purchase food for the family. Requiring a photo ID also does not resolve benefit trafficking or secondary market fraud concerns.

Ms. Morgan stated that 21 percent of Kentuckians, or about 1 of every 6 adults, receive Medicaid benefits. Approximately 462,000 Kentucky adults (with income up to 138 percent of the federal poverty level, regardless of medical condition) receive services through the Medicaid expansion. In federal fiscal year (FFY) 2016 Kentucky spent over $9.6 billion on Medicaid services. The task force could consider creating a community engagement program for the Medicaid population that would require employment, volunteer hours, or education and job training.

In response to questions from Senator Westerfield, Ms. Morgan stated that she would provide the task force with information on the status of litigation regarding substance abuse testing at a later date, and Elizabeth Caywood, Deputy Commissioner of the Department for Community Based Services, stated that she would provide information on the amount of SNAP benefits distributed in Kentucky.

In response to a question from Dr. Wagner, Ms. Morgan stated that she did not recall if substance abuse screening requirements in HB 3 would apply to all 3 programs, but she will look into that.

In response to questions from Representative Kulkarni, Ms. Morgan stated that the recommended redistribution of TANF funds did not include efforts to prevent or reduce out-of-wedlock pregnancies and that under the redistribution model, funds allocated for childcare and child welfare could be used to Kinship Care payments.

In response to a question from Ms. Caywood, Ms. Morgan stated that TANF funds allocated for basic assistance did include child welfare activities. Ms. Caywood said that she would provide additional information on SNAP error rates in surrounding states and that the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) has repeatedly informed DCBS that substance use screening is not permissible in the SNAP program. She recommended that DCBS be allowed flexibility in how it manages TANF funds, and she stated that DCBS could testify to how funds are currently distributed. Ms. Caywood also cautioned against penalties and punitive action against parents stated that it is important to be mindful of the impacts on children.

In response to a question from Senator Humphries, Ms. Morgan stated that TANF funds in Kentucky are allocated to the four basic assistance categories in very different quantities than in most other states. She said that it may be necessary to examine these allocations.

**The Effects of Public Assistance Reform**

James Ziliak, Ph.D., Gatton Endowed Chair in Microeconomics and Director of the Center for Poverty Research at the University of Kentucky, testified on public assistance participation rates. Dr. Ziliak stated that in 2000 approximately 2 percent of Kentuckians received benefits through TANF and that by 2018 that number had dropped to less than 1 percent, or roughly 40,000 people. The strong economy and reforms of the

1990's lead to a reduction in TANF participation and an increase in employment among single mothers. He also stated that the up take rates, or the percent of eligible individuals who receive benefits, has declined. Under Assistance for Families with Dependent Care (AFDC), the predecessor to TANF, 70 to 75 percent of eligible individuals received aid. Under TANF about 20 percent of eligible individuals receive aid.

On the topic of SNAP, Dr. Ziliak testified that the majority of the administrative costs covered by the state of Kentucky go toward the payment of participating vendors. Nationally, 250,000 outlets accept SNAP benefits, including over 4,500 in Kentucky. SNAP participation rates in Kentucky are higher than the national average. In 2018, Kentuckians received $850 million in federal SNAP benefits. Research indicates that every dollar of SNAP benefits generates $1.50 in economic activity, or $1.27 billion for Kentucky in 2018. Households that receive SNAP benefits spend 20 percent less on healthcare than low income households that do not receive SNAP benefits.

Dr. Ziliak testified that children are by far the largest group served by the Medicaid program, but more Medicaid funds are spent on nursing homes and disabled elders than children.

Dr. Ziliak stated that states that allocate funding for training experience longer term gains from public assistance recipients than those states that attempt to push people into work through work or community engagement requirements. Rescinding the Able-Bodied Adult Without Dependent (ABAWD) waiver has led to declines in SNAP participation, but that there is little evidence that rescinding the waiver has increased job participation rates.

On the subject of substance abuse screening, Dr. Ziliak testified that federal laws prohibit participation in TANF and SNAP by convicted drug felons, but states do have the option to modify or remove those prohibitions. Kentucky, along with about half of all states, modifies the ban. He stated that evidence from various states has shown that the administrative costs of drug testing outweighs the potential benefits and that substance use is not related to participation in public assistance programs or the length of time an individual receives benefits.

Dr. Ziliak testified that because USDA guidelines for SNAP require that benefits be redeemable by any member of the household that receives benefits, including photo identification on benefit cards is not recommended as this could prevent the use of benefits by some household members. Current SNAP error rates are near an all-time low, and requiring cards to contain photo identification will likely increase administrative costs and create problems for vendors and benefit recipients.

In response to a question from Senator Westerfield, Dr. Ziliak stated that he was not familiar with the exact modification that Kentucky has made concerning TANF and SNAP participation by convicted drug felons. Ms. Caywood stated that according to KRS 205.2005, any public assistance recipient under Title IV of the federal Social Security Act and any food stamp program recipient who has been convicted of a drug felony after August 22, 1996 shall remain eligible for benefits if the recipient has been assessed as chemically dependent and is participating in, or has successfully completed, a chemical dependency treatment or is pregnant.

In response to questions from Senator Humphries, Dr. Ziliak explained that SNAP was established based on the economy food plan of 1964 and has only been updated about once every decade since. SNAP is updated to respond to food price inflation. The economy food plan was designed for emergency use only during natural disasters and was intended to be a temporary plan. The food preparation cost is understated by between 20 percent and 50 percent for single-mother families suggesting that SNAP benefits are inadequate for some families.

Mr. Wagner reflected on Dr. Ziliak's testimony quoting his statement, "if the goal is to reduce participation in TANF, SNAP and Medicaid among Kentuckians." Mr. Wagner asked the chair to explain the goal of the task force and how to measure the effectiveness of any changes to the public assistance programs. In response to Mr. Wagner's question, Chairman Meade stated that the purpose of the task force is information gathering, to get all sides of the issue at hand, to try to decipher data, and at the end to come up with some recommendations. He compared this task force to the Child Welfare House Work Group that was formed in 2017.

**Electronic Benefit Transfer (EBT)**

Laura Begin, a liaison from the Cabinet for Health and Family Services, testified that DCBS uses electronic benefit transfer (EBT) cards to administer SNAP, Kentucky Transitional Assistance Program (KTAP), and Kinship Care benefits. The Kentucky Works Program and the Work Incentive (WIN Reimbursements) program may also utilize EBT cards in active status in Kentucky and explained the process for using an EBT card. A benefit recipient, an authorized representative, or family member in the household that receives benefits are permitted to use the EBT card with a 4-digit PIN which is required for any transaction.

Mr. Douglas Beard, Director of Division of Family Support in the Cabinet for Health and Family Services, discussed restrictions and limits on the items that can be purchased using SNAP benefits. Food items that can be used for food preparation in the home, as well as seeds that can be used to grow food, are eligible to be purchased using SNAP benefits. Restricted items include alcohol, tobacco, live animals, vitamin supplements, prepared foods, cleaning products, personal hygiene items, pet food, and other non-food items. Because the EBT cards are used to transfer a variety of cash assistance benefits, the cards can be used to purchase items not permitted by SNAP and that the EBT card system deducts funds from appropriate accounts based on what is being purchased. Cash assistance program benefits, such as those received through KTAP, can be used for rent or mortgage payments, to pay utility bills, or to purchase items such as diapers and person hygiene products. EBT cards cannot be used to make any purchase as liquor stores, gambling facilities, or in adult-oriented entertainment facilities.

According to Mr. Beard, in May of 2019 approximately 529,000 individuals living in 238,000 households in Kentucky received SNAP benefits and approximately 14,000 households which were home to 27,000 children received KTAP cash assistance benefits via EBT cards. The average monthly SNAP benefit was $251 per household, 100 percent of which is federally funded. The average monthly KTAP benefit was approximately $217 per household. The eligibility rules for KTAP are more restrictive than SNAP; the income guidelines are lower and there must be children under the age of 18 living in the home.

Mr. Beard testified that EBT card fraud is committed by clients, retailers, and case workers. Client perpetrated fraud included trafficking or trading cards for cash, double participation which occurs when recipients receive benefits from multiple states, unreported household members or unreported income, and inappropriate purchases. Retailer perpetrated fraud includes giving cash back on SNAP purchases, stealing card information, and allowing households to purchase on credit. Case workers commit fraud by issuing cards or benefits to themselves or to ineligible family or friends. He explained that in an effort to prevent and detect fraudulent behavior, the cabinet monitors multiple replacement card requests, excessive card swipes which refers to the same card being used to make multiple large purchases in a single day, and out-of-state activity. The cabinet also utilizes secret shoppers and relies on public tips to combat fraud. Mr. Beard stated that in May of 2019, 192 cases of potential fraudulent activity were identified. For the reporting period in July to September 2018 a total of 184 individuals were disqualified from SNAP for trafficking benefits, and for the period of October to December 2018, 230 individuals were disqualified for trafficking. Combined, trafficking disqualifications from the second half of 2018 accounted for approximately $450,000 in fraud claims.

Mr. Beard explained that while federal regulations permit the inclusion of photo identification on EBT cards, under no circumstances can the inclusion of photo identification impact a household's eligibility or ability to use the card to purchase allowed items. Many recipients have authorized representatives who also must be allowed to use the cards to make permitted purchases. For these reasons, there are many situations in which photo identification may not work well. In the one state that includes photo identification on EBT cards (Massachusetts), he stated that 75 percent of benefit recipients are exempted from the photo identification requirements and that overall the program has not been proven to be beneficial. Maine previously implemented a photo identification requirement, but after 3 years, the state ended the program citing high administrative costs and no return on investment. Oklahoma attempted to implement a photo identification program only to determine that any potential benefits would not justify the administrative costs and burden. As alternatives to requiring photo identification on EBT cards, he discussed the possibility of connecting public assistance benefits to state issued driver's licenses or combining all public assistance benefits including Medicaid benefits on a single card.

In response to questions from Senator Westerfield, Mr. Beard stated in some cases of benefit fraud, the individual remains eligible but that benefits are captured by the state for restitution. Benefit interception of this sort typically lasts for about 12 months. He also explained that in some fraud cases there are hearings to explore the recipients' intentions prior to any criminal proceedings.

In response to a question from Senator Wise, Mr. Beard stated that anyone with the PIN number could make a purchase and it may not necessarily be healthy. Itemized data is not provided from the vendor so it's hard to know what products are purchased. He stated that Farmer's Markets were now accepting EBT cards, and suggested that the task force to explore FNS incentive programs for more nutritious purchases. Ms. Caywood added that some areas do not have access to fresh produce or fresh items. She also discussed the SNAP Nutrition Education Program that is available to communities which provides training on how to best utilize the benefits, purchasing in-season produce, gardening, and making economical and nutritious meals.

In response to a question from Senator Wise, Mr. Beard stated that the technology exists to reject the purchase of alcohol and tobacco products, but there are situations in which "Mom and Pop" stores may skew how those items are identified.

In response to questions from Representative Kulkarni, Mr. Beard stated that feminine hygiene products would be included under TANF funds, and that the funds were of cash value, so there would be little restriction, including for internet and other utilities.

**Public Comments**

Tracey Pully of the Family Resource Youth Services Center for Fulton Independent Schools stated that she was surprised and unhappy to hear Ms. Morgan make the statement that the only way to end poverty is to move people into the workforce. She stated that the vast majority of the parents she works with in Fulton, where half of the children are living in poverty, are employed. She stated she was disturbed to hear that only 1 percent of public assistance funding in Kentucky is lost to fraud but about 40 percent of this meeting was about fraud.

Charlotte Goddard, a teacher, stated she agreed with a lot of what Ms. Pully said. She was put off by remarks that have been made such as whether people are productive or not. She asked what the criteria was to determine the level of productivity or unproductivity. She stated that sometimes by reforming these programs, it can be detrimental to the families. Ms. Goddard asked that stigmas and stereotypes be put aside and start listening to evidence and research. Ms. Goddard stated that if she could show the task force a picture of a bed one of the children in her community is sleeping in, they would be appalled and said that we should not be demonizing the poor.

Megan Meyer, Chair, Pennyroyal Indivisible in Western Kentucky, stated that in Kentucky, 46 percent of SNAP recipients are children, up to 62 percent of recipients are disabled and elderly, and 36 percent are the working poor, so only about 4 percent of people receiving these benefits are not in some way turning in applications or proving that they are at least looking for work opportunities. She asked the task force to provide more jobs that pay more than $10 an hour. She stated that the cost of living is too high to live on $10 an hour and that the last time you could live in a 2-bedroom apartment for $10 an hour was 1976. She asked the task force to look at reform through a lens of how you can invest in your people and not how you can divest people from assistance.

Amanda Groves, representing Kentuckians for the Commonwealth, Western Kentucky chapter, stated that every citizen in Kentucky in entitled to good education, quality healthcare, and quality fair economic justice and economic policies. She asked if the purpose of the task force is it to bring in more revenue, because if that is the case, then look at the corporate welfare. She also asked that the task force hear from constituents on these issues.

Reverend Don Gillette, Executive Director, Kentucky Council of Churches, stated that the drug testing and photo identification would create higher administrative costs, and cause food insecurity, reduce health coverage and care, cause bankruptcies, and negative spillovers. He stated the system needs to be reformed for the better. He requested that the task force listen to constituents.

With no further business the meeting was adjourned at 5:29 PM.

## PUBLIC WATER AND WASTEWATER SYSTEM INFRASTRUCTURE TASK FORCE

**Minutes of the 1st Meeting of the 2019 Interim**

July 24, 2019

**Call to Order and Roll Call**

The 1st meeting of the Public Water and Wastewater System Infrastructure Task Force was held on Wednesday, July 24, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Phillip Wheeler, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senator Robin L. Webb; Representatives Derek Lewis and Ashley Tackett Laferty; Michael Burress, David Farrar, Mike Gardner, Peter Goodmann, Gary Larimore, Donna McNeil, and Brian Traugott.

Guests: Charles Snavely, Secretary, Energy and Environment Cabinet, R. Bruce Scott, Deputy Secretary, Energy and Environment Cabinet and Peter Goodmann, Director, Division of Water, Energy and Environment Cabinet.

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

**Kentucky's Water Infrastructure Needs**

R. Bruce Scott, Deputy Secretary, Energy and Environment Cabinet (EEC) and Peter Goodmann, Director, Division of Water, EEC explained Kentucky's Water Infrastructure – Status and Needs. Mr. Goodmann stated that the focus of the information would include infrastructure for wastewater and drinking water. About 95 percent of Kentuckians receive public water. The regional consolidation of systems is ongoing in order to relieve unsustainable situations. The consolidations come with old infrastructure where maintenance and investment has been deferred and sufficient planning for the future has not been done. Since 1996, more than 145 small wastewater treatment plants (WWTPs) have been taken off-line. There are 800 wastewater systems across the state that are in operation today and approximately 180 of those have been identified as priority candidates for regionalization. Most are located in small communities that are remote to regional facilities. Mr. Scott explained that HB 513 was in response to a privately owned system in Bullitt County that collapsed. The bill allowed better regulatory oversight of small private WWTPs and allowed sanitation districts, water districts, etc. to own and operate systems outside their jurisdictions with voluntary agreement. Mr. Goodmann stated that Kentucky had been successful at regionalization, but it was important to invest and maintain the assets that had been built. The average age of wastewater plants is thirty-six years old, with 18,000 miles of sewer lines, and more than 4000 sewage lift stations. Mr. Goodmann said that according to the United States Environmental Protection Agency (USEPA) 2014 Clean Watershed Needs Survey, Kentucky would need to invest $6.343 billion for its wastewater infrastructure.

Mr. Goodmann stated that Kentucky uses an estimated 136 billion gallons of potable water each year, about 75 percent of which is used by residential households. The average per capita usage is typically less than 75 gallons per day or 27,000 gallons per year. More than 95 percent of households and businesses are served by a public water system. The vast majority of entities and individuals are paying something for their water usage via an existing billing system and using a variety of usage fee rate structures. There are 213 water treatment plants with an average age of 38 years, approximately 64,000 miles of distribution lines (average age of 40 plus years), approximately 1,800 water storage tanks (average age of 28 years), and more than 1,000 pumping stations, which are old. Terrain, depths, and stream crossings present a challenge for distribution lines. According to USEPA's 2015 Needs Survey, Kentucky will need $8.232 billion for drinking water infrastructure through 2035. The American Society of Civil Engineers' (ASCE) 2017 Infrastructure Report Card gave Kentucky a Grade D.

Mr. Scott said that, without investment, Kentucky would experience failure of systems, which would be detrimental to the environment and quality of life in addition to losing economic growth opportunities. There are funding options through the federal government, and state, local, and private entities. As an example, he said that the Kentucky Infrastructure Agency (KIA) has money for loans.

Mr. Scott said that not all systems were taking advantage of the available funding options. The smaller, more vulnerable systems had insufficient borrowing capacity to obtain low or even zero interest loans; inadequate technical capacity to sufficiently operate the system(s), difficulty finding entities willing to assume the responsibility of managing a substandard or poorly operating system, and inadequate fee rate structures in place to be sustainable. A lot of utility models were constructed under the presumption that there would be more usage and fee rates. With more efficient use of water, consumption has declined. Previously, communities relied upon coal severance dollars and other federal dollars that have since gone away.

Mr. Goodmann said that targeted investment was needed for critical water infrastructure where funding options are limited in challenged communities. Developing community partnerships and public and private partnerships to help make financing infrastructure more available, and affordable, and leveraging of existing sources of funding are both key. One area of concern is receivership. The court recently rejected a request for receivership to take over a system while raw sewage was running down homeowners' backyards. He suggested targeted investment in counties that are struggling.

Mr. Scott said that approximately $6 million had been given to Martin County but they are still not prepared to spend it. The EEC offered Martin County $7.5 million in loans with nearly zero interest, but the loans were rejected because they could not afford the loan.

Mr. Scott explained that there was a lack of technical, managerial and financial capacity for some systems. Some systems are understaffed with certified operators. Some systems need better cost accounting and financial oversight. He stated that investing in infrastructure would provide better economic growth and protect Kentucky's public health. He said that for every $3 million invested in water infrastructure, 15 jobs were created.

Senator Webb requested that the list of the 180 entities which have been identified as priority candidates for regionalization be provided to the committee along with their priority and status. She said it would also be good to talk about the dual jurisdiction between federal and state entities.

In response to Senator Webb, Mr. Scott stated that EEC's staffing for inspections was good, but the cabinet was still not able to inspect every system annually.

In response to Representative Lewis, Mr. Scott stated that the EEC had no money to help the water systems. There are federal funding options available through several federal agencies such as the Kentucky Infrastructure Authority (KIA) and sometimes through state, local and private funds. Mr. Goodmann said changes are being made to the qualifications for a certified operator in order to speed up the process.

Mr. Gary Larimore, Executive Director, Kentucky Rural Water Association (KRWA), stated that the association can do rate studies, at no charge, to help systems find the best option for raising rates. Mr. Larimore announced that KRWA had just started an apprenticeship program, certified by the Education and Workforce Development Cabinet. The program would be available to existing employees, graduating high school students, and college students. It is a two-year program requiring 4,000 hours.

In response to Senator Wheeler, Mr. Scott stated that Martin County received a grant from the Abandoned Mine Land Grant Program. Ms. McNeil said there were more loan funds available other than grant funds. Rural Development has a loan grant program. Most grants required a match that could be matched with other grants or loans. KIA has four different loan programs, two of them are state and the other two are federal. She said she would provide the committee with information on funding sources and the availability of the grants or loans for the different infrastructures purposes.

Mr. Goodmann said that there is a lot of money available for disasters through the Federal Emergency Management Agency (FEMA). He state that Kentucky leaves millions of dollars on the table each year.

In response to Senator Wheeler, Ms. McNeil explained that KIA has a Fund B program for drinking water, wastewater, and infrastructure funding. She explained that KIA also had several other financing options to help challenged communities with infrastructure.

In response to Representative Tackett Lafferty, Mr. Larimore said that the KRWA reviews what the revenue needs are for a community and then makes a rate structuring recommendation. If a case is before the Public Service Commission (PSC), then the PSC can make an interim rate based on the information provided at that time. It could be a flat rate in order to generate revenue quickly until new meters are installed for accurate reading for commercial users. The PSC could then phase-in new rates based on recommendations.

Charles Snavely, Secretary, Energy and Environment Cabinet suggested that in addition to addressing funding issues, the committee should also address oversight and management of the systems.

Ms. McNeil said that most of the utilities who do a good job have properly funded replacement reserve accounts. She said that KIA requires a replacement reserve account to be in place for the life of a loan. One reason utilities do not want loans is the requirement of audits. She said she thought EEC had authority to regulate against improper operation and maintenance of utilities.

Mr. Goodmann stated that there is some language in the construction permit. He said that Kentucky was in the minority of states that did not have drinking water operational permits, which might be the topic of future discussions.

Mike Gardner, Water/Sewer Systems Manager, Bowling Green Municipal Utilities, said that a lot of problems for the systems was lack of local leadership and working on measures to fill the funding gap.

There being no further business, the meeting was adjourned.

# Special session,

from page 2

bill's passage in 2015.

"What's the difference between 2015 and now? Ask yourselves that," Miller told the House. "We have to take action… It's time to take action to solve things."

House Minority Caucus Chair Derrick Graham, D-Frankfort, who voted against HB 1, said 2015 HB 62 was a response to a federal bankruptcy ruling in the case of Seven Counties Services, a Louisville-based community mental health center that was allowed to withdraw from the state pension system after the agency filed bankruptcy.

Floor amendments proposed to the bill in both the House and Senate were defeated before the final votes on the bill were taken in both chambers.

Rep. Joe Graviss, D-Versailles, who filed HB 2 as an alternative bill this special session, said his bill—defeated by a vote of the House State Government Committee—was more actuarially sound. He also challenged a non-severability clause in HB 1 requiring that the legislation be voided if any of provision in the bill is found unconstitutional or unenforceable. He called the clause "throwing the baby out with the bath water."

Also proposed but voted down in committee was HB 3, sponsored by Rep. Angie Hatton, D-Whitesburg. Hatton's proposal had the singular goal of enacting a retroactive one-year freeze on employer contribution rates for quasi-governmental agencies and regional state universities and colleges to serve as what she called "insurance" in case other legislation considered this special session hits a roadblock.

Both Graviss and Hatton were among those in the House voting against HB 1. Among those voting against the bill in the Senate was Minority Floor Leader Sen. Morgan McGarvey, D-Louisville.

"We didn't want to come in here and just gavel out. In fact, we wanted to come in here and take the time to pass a bill that wouldn't generate the type of debate we saw today and instead have more unanimous, broad support because we do care about our workers. We do care about our institutions. We care about their jobs and the stability of the entire system," McGarvey said on the Senate floor.

The special session was not unexpected. Gov. Matt Bevin indicated that he would call a special session on quasi-governmental pension reform when he vetoed 2019 HB 358, legislation passed in the final hours of the 2019 Regular Session to address the quasi-governmental pension crunch.

The legislation included an emergency clause, which means the new law went into effect when the governor signed it on July 24.

# Alzheimer's,

from page 3

for short. Those are people who assist older adults and people with disabilities with daily tasks, such as dressing, bathing and eating.

"No matter what laws and regulations are in place, no matter if the care is from a for-profit or not-for-profit organization, no matter the amount of money being paid by the individual or by the state's Medicaid program – the experience of the older adult is determined by his or her interactions with the DCW," Culp said. "Nursing home residents throughout the country explain that the most important elements of quality in their day-to-day lives were the accessibility and attitude of the DCW. A good long-term care experience is dependent on having enough DCWs who are well trained and have a positive attitude."

Adjusted for inflation, wages for home care workers have remained stagnant in the last decade, according to information provided to the task force. It was $10.66 in 2007 and $11.30 in 2017. Culp said nursing assistants are more than three times likely to experience injuries on the job than the typical U.S. workers.

Culp said her office investigated 6,025 complaints last fiscal year. Twenty-seven percent of the complaints were about care while 15 percent of the complaints were about staffing.

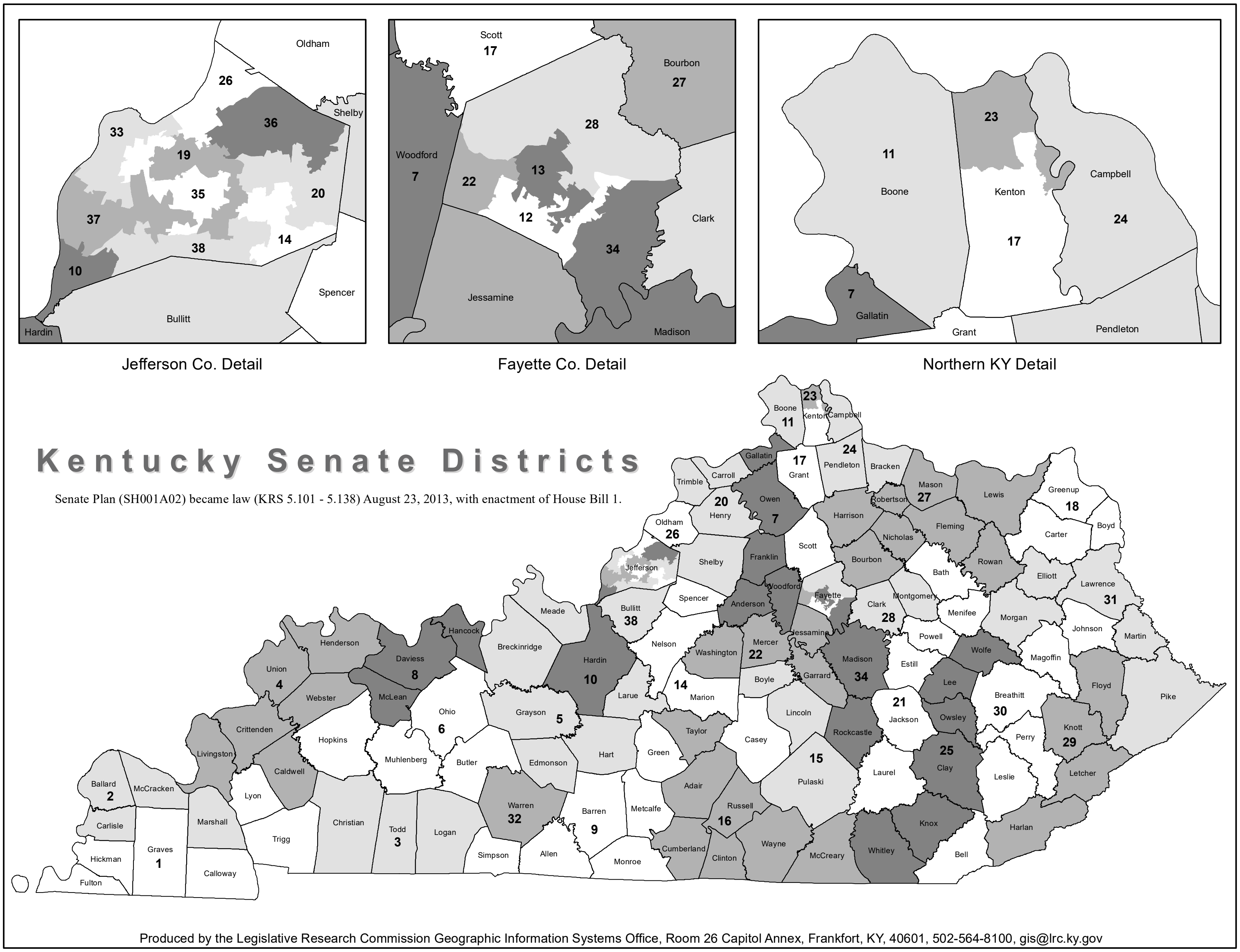
Steve Davis, inspector general for the Cabinet for Health and Family Services, testified from the regulator's point of view on Kentucky long-term care supports for Alzheimer's and dementia. He said Kentucky's assisted living standards do not adequately address the need for residential care for individuals who require limited health care support but do not need high-intensity nursing care.

"Kentucky should modernize its residential community standards to enable individuals who enter care with nearly full cognition to age in place … ," he said. "The focus should be on the continuum of care and should enable a resident to avoid discharge until clinically unstable or in need of high-intensity nursing services."

Sen. Stephen Meredith, R-Leitchfield, asked for specific suggestions on how Kentucky could modernize its standards. Davis said the Cabinet had been reviewing Florida's model for long-term care for more than a year and that Kentucky may want to adopt aspects of the sunshine state's standards.

Davis said Florida's model does allow residents to more easily stay in one place.

The Kentucky task force must report its findings and recommendations to the Legislative Research Commission of the General Assembly by Nov. 29.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Spencer
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Henderson
Breckinridge
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Wolfe
Magoffin
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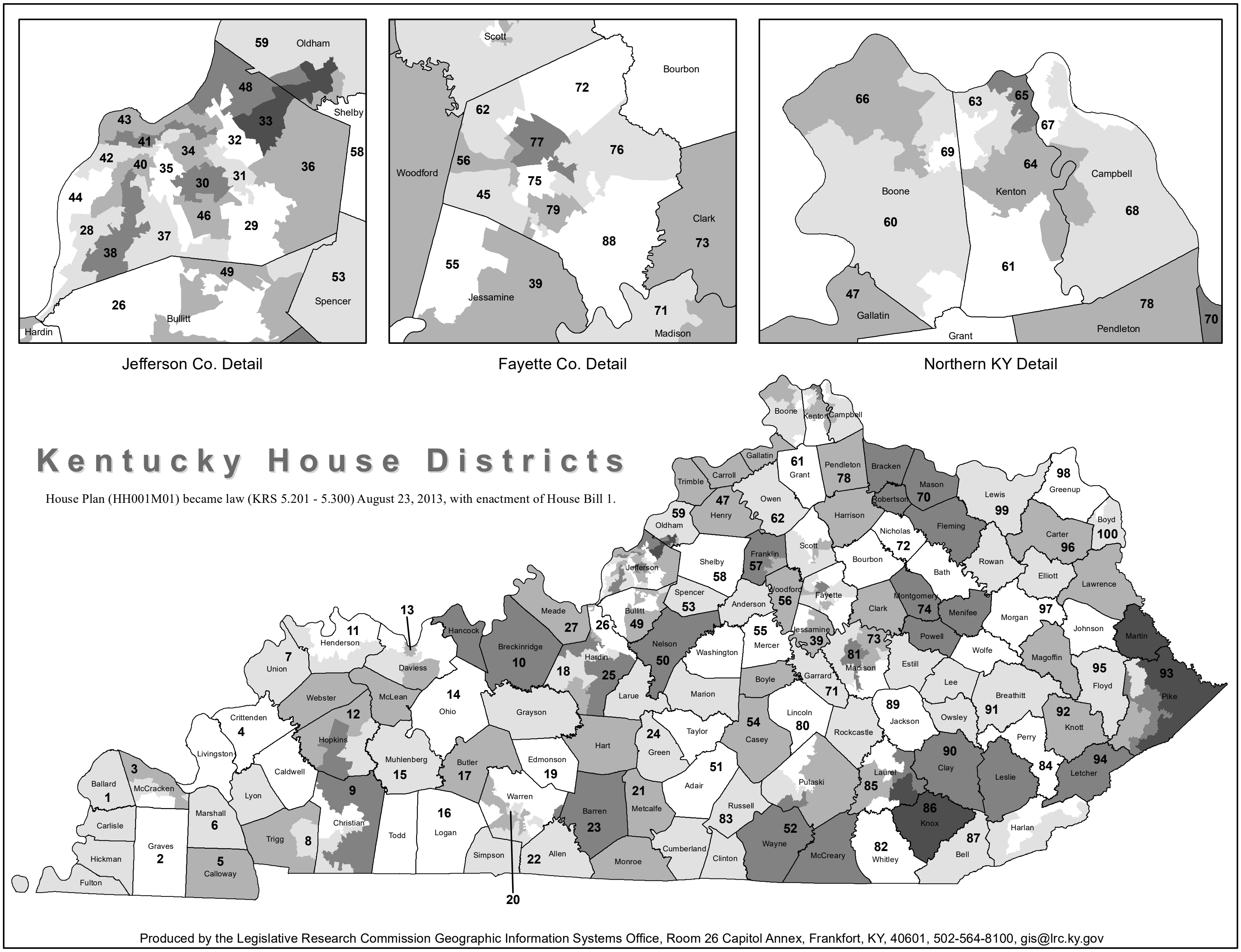
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Kentucky House Districts
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