

2017 Interim

# LEGISLATIVE

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\* Read online at [www.lrc.ky.gov/legislation.htm](http://www.lrc.ky.gov/legislation.htm)

RECORD

## New state revenue estimates project slow growth

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT---State revenue projections for this fiscal year and the next two fall a bit short of earlier expectations made in October.

Official state General Fund revenue estimates issued on Dec. 15 by the Consensus Forecasting Group (CFG) project that state revenues will grow by \$287.5 million in fiscal year 2019 and \$284.15 million in 2020. Less growth totaling \$240.57 million is expected this fiscal year, leaving the state with a predicted \$156.1 million shortfall in the current year.

Total General Fund revenues estimated by the CFG for fiscal years 2018 through 2020 are \$10.7 billion in fiscal year 2018, \$11 billion in fiscal year 2019, and \$11.29 billion in fiscal year 2020.

Predictions were made by the CFG panel based on information provided by the firm Global Insight, a world market research and economic forecasting organization. It is based on Global Insight's "control," or moderate, forecast for the next two years even though that forecast projects \$0.5 million in less General Fund revenue for Kentucky over the next two years than Global's "pessimistic forecast" estimates preliminarily accepted by the CFG two months ago.

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## Constitutional officers share legislative wish lists

by Jim Hannah  
*LRC Public Information*

FRANKFORT – A panel of state lawmakers recently got a better idea of the legislation some of Kentucky's statewide constitutional officers will advocate for during the upcoming regular session.

"We have a couple of things percolating," Kentucky Auditor of Public Accounts Mike Harmon said while testifying before the Interim Joint Committee on State Government on Nov. 29. "I'll let you peek under the hood, as it were, at a few things we are working on."

He said the legislature could help Kentucky's 120 counties by passing a bill modeled after an Ohio law that allows for an occasional, less-expensive audit of counties with a history of sound financial recordkeeping.

Another piece of suggested legislation from Harmon would close a loophole he said his office found that allows cities to receive state road funds even if they haven't completed a yearly audit.

Kentucky State Treasurer Allison Ball said her No. 1 legislative priority is reform of Kentucky's unclaimed property law. Part of her office's duties is to handle unclaimed property such as uncashed payroll checks, inactive stocks, dividends and savings accounts.

Ball said her office returned \$25 million in unclaimed property last year. She attributed the figure, in part, to going out and identifying entities such as school boards and nonprofits that normally wouldn't think to check to see if they have unclaimed property.

"I'm a big believer in property rights and



Rep. Phil Moffett, R-Louisville, asks a question during the Nov. 29 meeting of the Interim Joint Committee on State Government.

getting people's property back to them," Ball said. "It is good for the economy because it is their money and they now can do what they want to with it."

Ball said additional legislation is needed, however, to deal with 21st-century creations such as gift cards and Bitcoins.

Kentucky Department of Agriculture General Counsel Joseph Bilby said his department

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# Farmers given credit for state soil, water improvements

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT—Farmers deserve at least some of the credit for reducing pollutants in Kentucky's water supply, the co-chair of a state legislative committee says.

Tobacco Settlement Agreement Fund Oversight Committee Co-Chair Rep. Myron Dossett, R-Pembroke, praised farmers for helping to lower the amount of so-called nutrient pollutants like nitrogen and phosphorus in Kentucky's water following a presentation by the Kentucky Division of Conservation before the committee on Dec. 6.

Dossett pointed to the division's own statements that less nitrogen and phosphorus is being detected in Kentucky's waterways. Nitrogen and phosphorus are common ingredients in fertilizer, which is commonly used to grow crops.

"I see it so many times just in my home area. Our farmers ... they don't work all the way down into the creek banks," to help prevent pollutants from leaching into creeks and streams, said Dossett. "We owe them a debt of gratitude for helping on that."

Division of Conservation Director Kimberly Richardson agreed with Dossett that farmers and landowners play a big role in protecting the state's soil and water. She said \$147.2 million has gone into the agency's state cost share program to help farmers and landowners improve soil and water quality on Kentucky land since 1994. Of that total, \$126.5 million has come from Kentucky's tobacco settlement agreement funds.

Stream crossings that protect water from equipment and livestock, fencing, and resto-

ration of pasture and hay land—especially in drought years, most recently in 2012—are among projects funded in past years.

"They are the original environmentalists," Richardson said of Kentucky's farmers. "They want to pass their land along, they want to pass their waters along, and they want it to be better than when they got it."

Richardson said 1,845 applications for cost share assistance totaling over \$14 million were submitted this fiscal year, with 1,201 of those applications approved.

The Division of Conservation's state cost share program has received 52,000 applications for assistance from farmers since 1994, she said, with over 17,948 applications approved totaling over \$155 million in assistance.

The agency also provides environmental grants to the state's 121 conservation districts, she said, and assists landowners who need help complying with state Division of Water protocols. This fiscal year, at least 136 environmental grants were approved, said Richardson.

"Districts are able to come up with unique programs for things such as soil testing, metal recycling—maybe it's cover crops, river clean-ups, whatever becomes a local issue in your community" using the grants, said Richardson. She emphasized that the grants fund local priorities, not state or federal mandates.

When asked by Sen. Robin Webb, D-Grayson, about federal funds for state conservation programs, Richardson said her agency expects federal cuts as does the Natural Resources Conservation Service or NRCS, a federal agency that provides technical assistance to her agency.

"I think we're going to be in general seeing a



Sen. Robin Webb, D-Grayson, comments on conservation issues during the Dec. 6 meeting of the statutory Tobacco Settlement Agreement Fund Oversight Committee.

decrease," said Richardson. "We are working toward a couple of different avenues to address that loss of technical assistance" from the NRCS. One solution may come from the National Association of Conservation Districts or NACD, which Richardson said is offering technical assistance grants.

"We have one application in for that, and that looks to be some guaranteed funding," said Richardson.

Kentucky has a conservation district for each of the state's 120 counties, with Logan County divided into two districts. Each district is governed by a local board of supervisors elected by local voters.

## Forecast, from page 1

"So the control for December (2017) is worse than the October forecast by half a million dollars," said state Deputy Executive Director for Financial Analysis Greg Harkenrider.

The CFG decided not to accept the pessimistic forecast, with particular concern given to its prediction of another short-term recession in fiscal year 2019. Deputy Executive Director Michael Jones of the Governor's Office for Policy and Research said Global Insight based the

prediction on data showing a future decline in commercial real estate prices and consumer reactions to fiscal conditions.

"We've had 102 continuous months of growth," said Jones. "Nineteen more months and this makes it the longest expansion ever."

The forecast chosen by the CFG for the next budget cycle shows a better picture including a significant increase in housing starts, said Jones. Growth in the real GDP (gross domestic prod-

uct) is also reflected in the forecast, compared to zero growth assumed for fiscal year 2019 by the pessimistic forecast.

Revenue estimates for the state Road Fund, which pays for road construction and maintenance in the state, were also issued on Dec. 15 by the CFG. Revenue losses in the Road Fund are expected this fiscal year with growth of less than a percentage point projected for fiscal years 2019 and 2020.



# Cities, counties share 2018 platforms

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT—Kentucky cities and counties need more revenue, their representatives told state lawmakers on Nov. 29. They also want to protect pensions earned by their workers, they say.

Being able to fund pensions and “safe, clean and economically healthy communities” requires more flexibility than cities now have, said Jonathan Steiner, the executive director of the Kentucky League of Cities (KLC) who told the Interim Joint Committee on Local Government that cities want more autonomy.

“Local elected officials need a way to mitigate these changes to ensure they can continue to meet their obligation,” said Steiner. “They’re seeking more control over their local pensions, and they’re looking to the legislature to create a culture in the state that helps grow our local workforce.”

“(We) reiterate our pledge to work with the legislature ... to further address the pension crisis while also protecting the investment to public service made by our members,” Kentucky Association of Counties (KACo) President and Jefferson County Circuit Clerk David L. Nicholson told the panel.

Cities asked the committee to fully support “home rule”—broad self-governance granted to cities by the Kentucky General Assembly under state law. County organizations that are members of KACo who also presented today asked for more funding options for roads, jails, and a number of other services.

“Jails will always be on our priority list,” said Larue County Judge Executive and Kentucky County Judge Executive Association legislative chairman Tommy Turner. The longtime county official was one of a few local leaders today who

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hinted at tax reform, with KLC President and Richmond Mayor Jim Barnes advocating expansion of the restaurant tax and Turner mentioning the possibility of a local option sales tax. Local option sales tax legislation has been proposed but failed to pass the Kentucky legislature in previous years.

Acknowledging the complex needs of local governments was Interim Joint Committee on Local Government Co-Chair Sen. Joe Bowen, R-Owensboro, who said he heard local officials call for both more revenue and pension reform in today’s meeting. Bowen explained that the two aren’t mutually exclusive.

“The reform that many of us have been wrestling with over the past six months or so has



Sens. Christian McDaniel, R-Taylor Mill, at right, and Wil Schroder, R-Wilder, listen to testimony during the Nov. 29 meeting of the Interim Joint Committee on Local Government.

met opposition from many of you,” Bowen told the officials. And, while he said he understands their position, “without pension reform, we can’t identify those additional funds,” he said.

Calls for tax reform have also been greeted cautiously by Bowen who said tax reform is a long-term fix that will not meet immediate revenue needs at the local level.

“In order for us to be able to address these critical budgetary needs ... we have to get pension reform done,” said Bowen.

## Legislative needs, from page 1

will ask for legislation to clear up some regulatory issues that may not seem too important to the public but are of top concern for some in agricultural industries.

He said that while his department has been issuing certificates of free sale for years, it will request for that authority to be written into law. Some countries require the certificates to show that the products offered for entry into their country comply with U.S. laws and regulations.

Bilby said his department would like to exempt state agricultural producers from having to install expensive electronic logging devices on their trucks if they are making deliveries less than 150 miles away. The current exemption is 100 miles. Electronic logging devices are attached to commercial motor vehicles to ensure compliance with the federal law regulating how long a driver can be behind the wheel.

Co-chair Sen. Joe Bowen, R-Owensboro, said

it was good to get a heads-up on the legislative needs of the constitutional offices.

“This is the last meeting of the interim session,” he said. “We have taken up some very timely topics and some topics I’m sure that will be addressed in the upcoming session of the General Assembly.”

The General Assembly’s 2018 session begins Jan. 2 and is scheduled to last through April 13, 2018.

# 2018 REGULAR SESSION CALENDAR

## JANUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 CONVENE	3	4	5 *HR 49 Posting required for prefiled House Bills	6
7	8	9 (1)	10 (2)	11 (3)	12 (4)	13
14	15 (5)	16 (6)	17 (7)	18 (8)	19 (9)	20
	15 Martin Luther King, Jr. Day HOLIDAY	16 (10)	17 (11)	18 (12)	19 (13)	20
21	22	23	24	25	26	27
28	29 (14)	30 (15)	31 (16)			

\*House Rule 49 states in part: "In the case of prefiled House Bills receiving the affirmative vote of a majority of the House members of the interim prior to which they were assigned, posting to the chair or the committee shall occur during the first four days of the session, and those bills may be considered by the appropriate committees during the first fifteen legislative days of the session. No posting request shall be required for those prefiled bills."

## FEBRUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8 (22)	9 (23)	10
11	12 (24)	13 (25)	14 (26)	15 (27)	16 (28)	17
18	19 (29)	20 (30)	21 (31)	22 (32)	23 (33)	24
	19 President's Day HOLIDAY	20 (34)	21 (35)	22 (36)	23 (37)	24
25	26 Last Day for New House Bills (38)	27 (39)	28 Last Day for New Senate Bills (40)			

## MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8 (41)	9 (42)	10
11	12 (43)	13 (44)	14 (45)	15 (46)	16 (47)	17
18	19 (48)	20 (49)	21 (50)	22 (51)	23 (52)	24
25	26 (53)	27 (54)	28 (55)	29 (56)	30	31
		27 Concurrence Only (57)	28 Concurrence Only (58)	VETO	VETO	VETO

## APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 VETO	3 VETO	4 VETO	5 VETO	6 VETO	7 VETO
8	9 VETO	10	11	12 (59)	13 (60)	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

( ) Denotes Legislative Day

2017

Kentucky

General  
Assembly

## Senate

**Julie Raque Adams (36)**

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

**Ralph Alvarado (28)**

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

**Joe Bowen (8)**

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

**Tom Buford (22)**

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

**Jared Carpenter (34)**

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

**Danny Carroll (2)**

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

**Julian M. Carroll (7)**

702 Capitol Ave  
Annex Room 254  
Frankfort, KY 40601  
(LRC) 502-564-8100

**Perry B. Clark (37)**

5716 New Cut Rd  
Louisville, KY 40214  
(LRC) 502-564-8100  
(Home) 502-366-1247

**C.B. Embry Jr. (6)**

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

**Rick Girdler (15)**

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

**David P. Givens (9)**

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

**Denise Harper Angel (35)**

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

**Ernie Harris (26)**

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

**Jimmy Higdon (14)**

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

**Paul Hornback (20)**

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

**Stan Humphries (1)**

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

**Ray S. Jones II (31)**

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

**Alice Forgy Kerr (12)**

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

**Christian McDaniel (23)**

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

**Morgan McGarvey (19)**

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

**Stephen Meredith (5)**

702 Capitol Avenue  
Annex Room 229  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 270-287-9849  
(Work) 270-230-3301

**Gerald A. Neal (33)**

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

**Dennis Parrett (10)**

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

**Dorsey Ridley (4)**

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

**Albert Robinson (21)**

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

**John Schickel (11)**

2147 Natches Trace  
Union, KY 41091  
(LRC) 502-564-8100

**Wil Schroder (24)**

25 Observatory Pointe Dr.  
Wilders, KY 41076  
(LRC) 502-564-8100

**Dan “Malano” Seum (38)**

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

**Brandon Smith (30)**

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

**Robert Stivers II (25)**

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

**Damon Thayer (17)**

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

**Reginald Thomas (13)**

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

**Johnny Ray Turner (29)**

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

**Robin L. Webb (18)**

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

**Stephen West (27)**

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

**Whitney Westerfield (3)**

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

**Mike Wilson (32)**

631 Washington Avenue  
Bowling Green, KY 42103  
(LRC) 502-564-8100

**Max Wise (16)**

126 Cox Cove  
Campbellsville, KY 42718  
(LRC) 502-564-8100

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



# 2017 Kentucky General Assembly

## House

### Rocky Adkins (99)

PO Box 688  
Sandy Hook, KY 41171  
(LRC) 502-564-8100  
(Home) 606-738-4242  
(Work) 606-928-0407  
(Work FAX) 606-929-5913

### Lynn Bechler (4)

2359 Brown Mines Rd  
Marion, KY 42064  
(LRC) 502-564-8100  
(Home) 270-988-4171

### Danny Bentley (98)

702 Capitol Avenue  
Annex Room 329J  
Frankfort KY 40601  
(LRC) 502-564-8100

### Robert Benvenuti III (88)

2384 Abbeywood Rd  
Lexington, KY 40515  
(LRC) 502-564-8100  
(Home) 859-421-1464

### John Blanton (92)

702 Capitol Avenue  
Annex Room 329H  
Frankfort, KY 40601  
(LRC) 502-564-8100

### Kevin D. Bratcher (29)

10215 Landwood Dr  
Louisville, KY 40291  
(LRC) 502-564-8100  
(Home) 502-231-3311

### Larry Brown (95)

702 Capitol Avenue  
Annex Room 329I  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Work) 606-886-8132

### George Brown Jr. (77)

424 E Fourth Street  
Lexington, KY 40508  
(LRC) 502-564-8100  
(Home) 859-312-7513

### Tom Burch (30)

4012 Lambert Ave  
Louisville, KY 40218  
(LRC) 502-564-8100  
(Home) 502-454-4002

### McKenzie Cantrell (38)

702 Capitol Avenue  
Annex Room 424A  
Frankfort, KY 40601  
(LRC) 502-564-8100

### John Carney (51)

PO Box 4064  
Campbellsville, KY 42719-4064  
(LRC) 502-564-8100  
(Home) 270-403-7980

### Matt Castlen (14)

7549 Iceland Road  
Maceo, KY 42355  
(LRC) 502-564-8100

### Tim Couch (90)

PO Box 710  
Hyden, KY 41749  
(LRC) 502-564-8100  
(Home) (606) 672-8999  
(Home FAX) 606-672-8998

### Will Coursey (6)

285 Oak Level Elva Rd  
Symsonia, KY 42082  
(LRC) 502-564-8100  
(Home) 270-851-4433

### Jim DeCesare (17)

PO Box 122  
Rockfield, KY 42274  
(LRC) 502-564-8100  
(Home) 270-792-5779  
(Work) 270-792-5779

### Jeffery Donohue (37)

PO Box 509  
Fairdale, KY 40118  
(LRC) 502-564-8100  
(Work) 502-439-6175

### Myron Dossett (9)

491 E Nashville St  
Pembroke, KY 42266  
(LRC) 502-564-8100  
(Home) 270-475-9503

### Jim DuPlessis (25)

102 Utah Court  
Elizabethtown, KY 42701  
(LRC) 502-564-8100

### Daniel Elliott (54)

PO Box 2082  
Danville, KY 40423  
(LRC) 502-564-8100  
(Home) 859-332-4204

### Joseph M. Fischer (68)

126 Dixie Place  
Ft Thomas, KY 41075  
(LRC) 502-564-8100  
(Home) 859-781-6965  
(Work) 513-794-6442

### Ken Fleming (48)

702 Capitol Avenue  
Annex Room 351D  
Frankfort, KY 40601  
(LRC) 502-564-8100

### Kelly Flood (75)

121 Arcadia Park  
Lexington, KY 40503  
(LRC) 502-564-8100  
(Home) 859-221-3107

### Chris Fugate (84)

702 Capitol Avenue  
Annex Room 329G  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 606-233-5660

### Al Gentry (46)

702 Capitol Avenue  
Annex Room 432D  
Frankfort, KY 40601  
(LRC) 502-564-8100

### Jim Gooch Jr. (12)

714 N Broadway B2  
Providence, KY 42450  
(LRC) 502-564-8100  
(Home) 270-667-7327  
(Work FAX) 270-667-5111

### Derrick Graham (57)

702 Capitol Avenue  
Annex Room 429J  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 502-223-1769

### Jeff Greer (27)

PO Box 1007  
Brandenburg, KY 40108  
(LRC) 502-564-8100  
(Home) 270-422-5100  
(Home FAX) 270-422-5100

### David Hale (74)

11 Hales Ln  
Wellington, KY 40387  
(LRC) 502-564-8100  
(Home) 606-768-3474

### Chris Harris (93)

719 Forest Hills Rd  
Forest Hills, KY 41527  
(LRC) 502-564-8100  
(Home) 606-237-0055

### Mark Hart (78)

702 Capitol Avenue  
Annex Room 316E  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 859-654-4278

### Angie Hatton (94)

20 Ohio St  
Whitesburg, KY 41858  
(LRC) 502-564-8100

### Richard Heath (2)

438 Millers Chapel Rd  
Mayfield, KY 42066  
(LRC) 502-564-8100  
(Home) 270-705-7539  
(Work) 270-247-2210  
(Work FAX) 270-247-2304

### Toby Herald (91)

702 Capitol Avenue  
Annex Room 329 B  
Frankfort, KY 40601  
(LRC) 502-564-8100

### Jeff Hoover (83)

PO Box 985  
Jamestown, KY 42629  
(LRC) 502-564-8100  
(Home) 270-343-2264  
(Work) 270-343-5588

### Dennis Horlander (40)

1806 Farnsley Rd, Ste 6  
Shively, KY 40216  
(LRC) 502-564-8100  
(Home) 502-447-2498  
(Work) 502-447-9000

### Regina Huff (82)

179 Mountain St  
Williamsburg, KY 40769-  
(LRC) 502-564-8100  
(Home) 606-549-3439

### Kenny Imes (5)

4064 US 641 N  
Murray, KY 42071  
(LRC) 502-564-8100

### Joni L. Jenkins (44)

2010 O'Brien Ct  
Shively, KY 40216  
(LRC) 502-564-8100  
(Home) 502-447-4324

### Dan Johnson (49)

702 Capitol Avenue  
Annex Room 413E  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 502-445-9355  
(Home FAX) 502-538-0877

# 2017 Kentucky General Assembly

<b>DJ Johnson (13)</b>	702 Capitol Ave Annex Room 352B Frankfort, KY 40601 (LRC) 502-564-8100
<b>James Kay (56)</b>	PO Box 1536 Versailles, KY 40383 (LRC) 502-564-8100
<b>Dennis Keene (67)</b>	1040 Johns Hill Rd Wilder, KY 41076 (LRC) 502-564-8100 (Home) 859-441-5894
<b>Kim King (55)</b>	250 Bright Leaf Dr Harrodsburg, KY 40330 (LRC) 502-564-8100 (Home) 859-734-2173
<b>Adam Koenig (69)</b>	170 Herrington Ct #12 Erlanger, KY 41018 (LRC) 502-564-8100 (Home) 859-653-5312
<b>Stan Lee (45)</b>	PO Box 2090 Lexington, KY 40588 (LRC) 502-564-8100 (Home) 859-252-2202 (Home FAX) 859-259-2927
<b>Brian Linder (61)</b>	16 Ridgeview Cir Dry Ridge, KY 41035 (LRC) 502-564-8100
<b>Mary Lou Marzian (34)</b>	2007 Tyler Ln Louisville, KY 40205 (LRC) 502-564-8100 (Home) 502-451-5032
<b>Donna Mayfield (73)</b>	2059 Elkin Station Rd Winchester, KY 40391 (LRC) 502-564-8100 (Home) 859-745-5941
<b>Chad McCoy (50)</b>	702 Capitol Avenue Annex Room 416B Frankfort, KY 40601 (LRC) 502-564-8100
<b>David Meade (80)</b>	PO Box 121 Stanford, KY 40484 (LRC) 502-564-8100
<b>Reginald Meeks (42)</b>	PO Box 757 Louisville, KY 40201 (LRC) 502-564-8100 (Work) 502-741-7464
<b>Michael Meredith (19)</b>	PO Box 292 Brownsville, KY 42210 (LRC) 502-564-8100 (Work) 270-597-6049
<b>Russ A. Meyer (39)</b>	106 Lone Oak Drive Nicholasville, KY 40356 (LRC) 502-564-8100
<b>Suzanne Miles (7)</b>	PO Box 21592 Owensboro, KY 42304 (LRC) 502-564-8100
<b>Charles Miller (28)</b>	3608 Gateview Cir Louisville, KY 40272 (LRC) 502-564-8100 (Home) 502-937-7788

<b>Jerry T. Miller (36)</b>	PO Box 36 Eastwood, KY 40018 (LRC) 502-564-8100
<b>Robby Mills (11)</b>	702 Capitol Avenue Annex Room 413C Frankfort, KY 40601 (LRC/Home) 502-564-8100
<b>Phil Moffett (32)</b>	812 Brookhill Rd Louisville, KY 40223 (LRC) 502-564-8100
<b>Tim Moore (18)</b>	417 Bates Rd Elizabethtown, KY 42701 (LRC) 502-564-8100 (Home) 270-769-5878
<b>C. Wesley Morgan (81)</b>	702 Capitol Avenue Annex Room 405D Frankfort, KY 40601 (LRC) 502-564-8100
<b>Kimberly Poore Moser (64)</b>	702 Capitol Avenue Annex Room 351C Frankfort, KY 40601 (LRC) 502-564-8100
<b>Rick G. Nelson (87)</b>	117 Gumwood Rd Middlesboro, KY 40965 (LRC) 502-564-8100 (Home) 606-248-8828 (Home FAX) 606-248-8828
<b>Jason Nemes (33)</b>	702 Capitol Avenue Annex Room 416C Frankfort, KY 40601 (LRC) 502-564-8100
<b>David Osborne (59)</b>	PO Box 8 Prospect, KY 40059 (LRC) 502-564-8100 (Home) 502-228-3201 (Work) 502-645-2186
<b>Sannie Overly (72)</b>	340 Main St Paris, KY 40361 (LRC) 502-564-8100 (Home) 859-987-9879
<b>Darryl T. Owens (43)</b>	1018 S 4th St, Ste 100 Louisville, KY 40203 (LRC) 502-564-8100 (Home) 502-584-6341
<b>Ruth Ann Palumbo (76)</b>	10 Deepwood Dr Lexington, KY 40505 (LRC) 502-564-8100 (Home) 859-299-2597
<b>Jason Petrie (16)</b>	702 Capitol Avenue Annex Room 351B Frankfort, KY 40601 (LRC) 502-564-8100 (Home) 270-265-3163 (Home FAX) 270-265-3164
<b>Phillip Pratt (62)</b>	702 Capitol Avenue Annex Room 316A Frankfort, KY 40601 (LRC) 502-564-8100

<b>Melinda Gibbons Prunty (15)</b>	PO Box 411 Greenville, KY 42345 (LRC) 502-564-8100
<b>Marie Rader (89)</b>	PO Box 323 McKee, KY 40447 (LRC) 502-564-8100 (Home) 606-287-7303 (Work) 606-287-3300 (Work FAX) 606-287-3300
<b>Rick Rand (47)</b>	PO Box 273 Bedford, KY 40006 (LRC) 502-564-8100 (Home) 502-255-3392 (Work) 502-255-3286 (Work FAX) 502-255-9911
<b>Brandon Reed (24)</b>	702 Capitol Avenue Annex Room 402 Frankfort, KY 40601 (LRC) 502-564-8100 (Work) 270-358-0868
<b>Jody Richards (20)</b>	817 Culpeper St Bowling Green, KY 42103 (LRC) 502-564-8100 (Home) 270-842-6731
<b>Steve Riggs (31)</b>	PO Box 24586 Louisville, KY 40224 (LRC) 502-564-8100 (LRC FAX) 502-564-6543
<b>Steve Riley (23)</b>	702 Capitol Avenue Annex Room 352C Frankfort, KY 40601 (LRC) 502-564-8100 (Home) 270-646-6821
<b>Rob Rothenburger (58)</b>	702 Capitol Avenue Annex Room 351E Frankfort, KY 40601 (LRC) 502-564-8100 (Home) 502-633-5832
<b>Bart Rowland (21)</b>	PO Box 336 Tompkinsville, KY 42167 (LRC) 502-564-8100
<b>Steven Rudy (1)</b>	350 Peppers Mill Drive Paducah, KY 42001 (Home) 270-744-8137 (LRC) 502-564-8100
<b>Sal Santoro (60)</b>	12094 Jockey Club Dr Union, KY 41091 (LRC) 502-564-8100 (Home) 859-371-8840 (Home FAX) 859-371-4060
<b>Dean Schamore (10)</b>	120 Ball Park Rd Hardinsburg, KY 40143 (LRC) 502-564-8100
<b>Attica Scott (41)</b>	702 Capitol Avenue Annex Room 432C Frankfort, KY 40601 (LRC) 502-564-8100

# 2017 Kentucky General Assembly

## Jonathan Shell (71)

PO Box 138  
Lancaster, KY 40444  
(LRC) 502-564-8100

## Arnold Simpson (65)

112 W 11th St  
Covington, KY 41011  
(LRC) 502-564-8100  
(Home) 859-581-6521  
(Home FAX) 859-261-6582  
(Work) 859-261-6577

## John Sims Jr (70)

702 Capitol Avenue  
Annex Room 429C  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 606-748-1839

## Kevin Sinnette (100)

PO Box 1358  
Ashland KY 41105  
(LRC) 502-564-8100  
(Home) 606-324-5711  
(Home FAX) 606-329-1430

## Diane St. Onge (63)

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

## Jim Stewart III (86)

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

## Wilson Stone (22)

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

## Walker Thomas (8)

702 Capitol Avenue  
Annex Room 413F  
Frankfort, KY 40601  
(LRC) 502-564-8100  
(Home) 270-889-8091  
(Home FAX) 270-885-5335

## James Tipton (53)

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

## Tommy Turner (85)

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

## Ken Upchurch (52)

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

## Gerald Watkins (3)

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

## Jim Wayne (35)

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

## Russell Webber (26)

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

## Scott Wells (97)

702 Capitol Avenue  
Annex Room 413D  
Frankfort, KY 40601  
(LRC) 502-564-8100

## Susan Westrom (79)

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

## Addia Wuchner (66)

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

## Jill York (96)

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

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

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### INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

**Minutes of the 6th Meeting  
of the 2017 Interim**  
November 2, 2017

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

The 6th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, November 2, 2017, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Ernie Harris, John Schickel, Brandon Smith, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Tim Couch, Jeffery Donohue, Jim DuPlessis, Daniel Elliott, Kelly Flood, Chris Fugate, Dennis Keene, Reginald Meeks, Suzanne Miles, Marie Rader, and Jim Stewart III.

**Guests:** Brydon Ross, Vice President of State Affairs, Consumer Energy Alliance (CEA); Allen Luttrell, Commissioner of the Department for Natural Resources; Secretary Charles Snively, Energy and Environment Cabinet, Chairman of the Reclamation Guaranty Fund Commission; David Carroll, General Manager, Paducah Power System (PPS), General Manager, Kentucky Municipal Power Agency (KMPA); Josh Callihan, Vice-Chair of Kentucky Municipal Energy Agency (KyMEA), President, Kentucky Municipal Utilities Association and General Manager, Barbourville Utility Commission; Annette DuPont-Ewing, Executive Director, Kentucky Municipal Utilities Association; and David Samford, Attorney at Law, Goss Samford, PLLC.

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

#### **Overview of Solar Policy and Infrastructure Challenges in the States**

Brydon Ross stated CEA is a consumer advocacy organization that brings together households and small businesses that use energy along with other industrial users to engage in a meaningful dialogue regarding America's energy future. The mission of CEA is to improve consumer understanding of energy security, including the need to reduce reliance on imported oil and natural gas, maintain

reasonable energy prices, and continue to diversify energy resources.

CEA was founded in 2006 and has over 250 member companies and over 400,000 individual consumer members. Kentucky has close to 5,500 individuals and partner organizations. CEA strongly advocates for and supports solar expansion. Mr. Ross testified that the United States is in the early stages of an energy revolution that can reshape the nation's economic landscape with proper regulatory and public policy decisions. Mr. Ross testified that solar is vital to the country's energy future and a significant part of our diverse energy sources. Solar will provide long-term health, environmental, and cost-saving benefits for families and businesses.

Mr. Ross testified that solar energy continues to set records every year due to the 70 percent cost decrease since 2010 and the incentive programs provided by the government and electric utilities. Many of the incentive programs were designed when there were not many users, so policymakers created options to encourage the use of solar. These programs grew in popularity. Over time, the structure used to incentivize consumers has resulted in losses due to covering the costs associated with providing electricity 24 hours a day, seven days a week. These costs are shifted to those who do not participate in the incentive programs.

In 2016, 47 states and the District of Columbia made legislative or regulatory updates to solar policy regarding net metering, rate design, and solar ownership. Net metering is a billing mechanism that compensates qualifying businesses and customers for any excess private electricity they generate. It creates private credits for participants that are valued at the full retail rate for electricity. This includes not just the value of the generated power, but also the grid infrastructure. Private solar customers would not have the ability to net meter without the public grid.

Mr. Ross testified that net metering allows private solar customers to avoid paying infrastructure costs. These costs are factored into a monthly power bill. When the costs are avoided, it creates a lapse in grid maintenance funding, or it requires that the loss of funds be collected elsewhere.

In 2015, CEA launched its Solar Energy Future Campaign to help expand and improve education on the importance of growing solar responsibly. The focus of the campaign is to raise

awareness on the value solar provides and to ensure policies are pro-consumer.

In 2016, CEA conducted a comprehensive analysis to evaluate solar nationally. The conclusions were that existing incentives for residential and third party solar were significant; private solar credit incentives shifted costs onto less affluent consumers; and incentives for privately owned solar varied widely among states.

In Kentucky, the typical private solar customer with a 30 kilowatt system receives over \$1,660 per year in excess credit generation. If the one percent cap were met by private solar program participants, the fiscal impact to consumers without private solar could reach \$5 million per year to help pay the fixed costs of maintaining the grid.

In response to Representative Flood, Mr. Ross stated the members who do not participate or cannot participate in solar should not have to shoulder the cost of the infrastructure for solar participants. A compensation rate that reflects market realities is needed. The incentive program should allow people to be grandfathered in who have already invested in solar, but incentive programs going forward should have a compensation rate equal to wholesale power.

#### **Status of the Kentucky Reclamation Guaranty Fund**

Allen Luttrell stated the Surface Mining Control and Reclamation Act (SMCRA) was passed in 1977. In 1982, Kentucky received primacy which allows the state to regulate the environmental and public protection aspects of SMCRA. In 2011, the Office of Surface Mining (OSM) declared the performance bond program inadequate, and in 2013, the Kentucky Reclamation Guaranty Fund (KRGF) was formed to partially address bonding inadequacies. Since April 2014, the KRGF balance has increased by approximately \$20 million dollars.

In response to the OSM bonding issues, Kentucky increased performance bond protocols in the permitting process, created KRGF, initiated reclamation liability reduction efforts, and revised bond forfeiture reclamation cost estimate procedures.

The revenue sources for KRGF include membership fees, tonnage fees, non-production and dormant fees, late payments, penalties and fines from the Division of Mine Reclamation and Enforcement violations, interest earned, and forfeitures.

The beginning balance of KRGF was \$23.5 million, and the current balance is \$43.8 million. The fund balance is increasing while the quarterly fee collection is decreasing. Mr. Luttrell explained that this change in balance and fee collection is due to forfeitures. There has

been approximately one forfeiture a month since May 2016. Most of the forfeitures are regarding bonds that were calculated utilizing the former protocol of OSM. Mr. Luttrell stated that there have not been any forfeitures under the current protocol.

The Highwall Reduction Initiative was implemented to monitor and track open highwall with a focus on idle operations. Almost 200,000 linear feet of idle highwall in inactive mines has been eliminated since March 2016. Mr. Luttrell stated that bond forfeiture cost estimates have been significantly reduced to reflect a more accurate reclamation expenditure.

In response to Senator Webb, Mr. Luttrell stated Kentucky uses a per-acreage bonding calculation. The previous calculation was \$2,500 per acre and has been increased to a minimum of \$4,000 per acre with consideration of site factors. The law allowed incremental bonding, so an applicant could bond one or two acres separately from other tracts of land. The program was designed to allow landowners to sell the coal they found during the construction of their residence. Mr. Luttrell explained that this program was abused by coal operators. When a forfeiture occurred, it was difficult for a contractor to do work on such a small scale. One of the new protocols was to add a \$75,000 minimum per applicant per increment to cover mobilization and demobilization.

In response to Representative Miles, Mr. Luttrell stated there is a permitting aspect within SMCRA. To obtain a permit you must first describe the land prior to mining and how the land will be utilized post mining. If the applicant wants to have a different post mining land use, then it has to be of an equal or higher use. Some of the land uses included in the regulations are residential, forest, recreation, and fish and wildlife habitat. There is also a public comment component. When the application is complete, it is a requirement to have four weeks of advertising plus a 30 day comment period. There is also public comment if the post mining land usage changes throughout the mining process.

In response to Representative Gooch, Mr. Luttrell said the state program that granted two acre permits was struck down by OSM and the permits are no longer issued. The program was intended for private construction.

In response to Senator Smith, Secretary Snively stated the reason the two acre permits were struck down was due to abuse of the program, and he hopes there can be a common sense solution.

#### **The Role of Joint Action Agencies in Paducah Power System's Success**

David Carroll stated within the last four years Paducah Power System (PPS) has reduced

residential rates by 16 percent and has reduced commercial/industrial rates by 20-25 percent. The reliability rate of PPS is 99.99 percent. There have been zero lost time accidents in the last 5.5 years. KMPA was formed in 2005 by an inter-local agreement between PPS and Princeton Electric Plant Board to finance ownership in the Prairie State Energy Campus (PSEC). The agency is authorized to coordinate planning, construction, and operation of joint electric power supply projects.

The Prairie State Energy Campus serves 2.5 million families and businesses in 180 midwestern communities. There are nine owners who are all public power entities. Six of the owners are joint action agencies. The campus project cost \$5 billion with \$1 billion in environmental emission controls.

KyMEA members are seeking joint action legislation. There are 10 members that provide cost effective, reliable and environmentally responsible power. PPS has a 10 year market based contract with KyMEA.

American Municipal Power (AMP) provides generation, transmission, and distribution of power for its 135 members in nine states. It is the largest municipal joint action agency in the country. PPS has a hydropower contract with AMP and has a seat on the AMP board. AMP assisted in securing a two-year capacity contract for PPS with NextEra Energy, which will reduce rates by \$3 million.

The benefit of joint action agencies is power supply planning through power contracts with other joint action agencies. Joint action agencies do not require generation to be owned. Another benefit of joint action is the ability to band together with other municipalities to have a voice on all regulatory issues and legislative processes for generation, transmission, and the environment.

In response to Representative Gooch, Mr. Carroll stated there is an opportunity for net metering because of the economies of scale for joint action agencies.

In response to Senator Webb, Mr. Carroll stated there are no current statutes that allow for the formation of a joint action agency. Annette DuPont-Ewing stated the 10 cities that joined together to form KyMEA was organized under four different KRS statutes. The joint action legislation would make a streamlined approach, so all are operating under one set of rules. The Natural Gas Acquisition Act will be used as a model for this legislation. Ms. DuPont-Ewing said the opposition to joint action legislation includes investor owned utilities and electric cooperatives. The opposition has asked that joint action agency legislation include oversight by the Public Service Commission (PSC). Josh Callihan stated that city agencies are subject to open



records and meetings and bound by the Model Procurement Code.

### **Regulated Utility Industry Principles on Municipal Joint Action Legislation**

David Samford stated he was speaking on behalf of investor owned utilities and cooperatives that have significant concerns with the proposed joint action legislation. Their main concern is the level of accountability and oversight of joint action agencies. Investor owned utilities are controlled by the shareholders, and electric cooperatives are controlled by their customers. Creating a joint action agency would establish a super board of multiple municipal agencies, and voters would not have the same level of oversight that they would have if it were their sole municipal utility.

Previously proposed legislation was very broad, and municipal customers in Kentucky would potentially be saddled with the obligations of the joint action agency without any recourse. Mr. Samford said he was not opposed to joint action agencies, but he believes there should be a prudent level of oversight.

In response to Representative Gooch, Mr. Samford stated cost overruns for investor owned utilities do occur in other contexts in the industry. If a utility is regulated by the PSC, the decisions are made by the objective regulator. In the context of an investor owned utility or a cooperative, the PSC has the ability to not allow the utility to pass on costs to the rate payers. With a joint action agency, the contracts are guaranteed that the municipal customers will pay full price for the power. Mr. Samford said that he was not suggesting that joint action agencies should be fully regulated. However, they should go through a similar process to what existing utilities go through. A regulated utility must apply for a certificate of public convenience and necessity to build a power plant in Kentucky. The applicant must show there is a need for the power and the new generation will not result in wasteful duplication. Prairie State Energy Campus (PSEC) is the model of why that type of analysis is needed because a utility invested \$461 million in a power plant that greatly exceeded the load capacity needed to serve consumers. The problem is what to do with the excess capacity.

In response to Representative Gooch, Mr. Carroll stated the boilers used at PSEC were not initially designed for that project. The boilers were designed for a failed project in Texas. Mr. Carroll stated that the proposed joint action legislation has specific guidelines for PSC to study and prevent capacity issues.

In response to Senator Embry, Mr. Carroll stated that in order to address rate issues in Paducah, a joint action agency needs to have enough participants to hire qualified staff, and PSC should issue an independent report paid for

by KyMEA regarding ownership of assets.

In response to Representative Miles, Mr. Samford stated he is not with the PSC. The concern is power contracts should not turn into insurance policies where the only people who are protected are the investors and do not take power from the power plant. The municipal customers would be responsible for those obligations. Ms. DuPont-Ewing stated each municipal utility makes a decision to participate in a project or buy wholesale power from the joint action agency. There are no plans for the next 15 years to build generation or transmission. All of the power contracts have an opportunity for renewal.

Josh Callihan stated joint action is a proven model in states around Kentucky, and there are safeguards in place to protect rate payers. The rate payers are the shareholders who have the opportunity to vote and attend open meetings. Mr. Samford stated municipal customers do not own PSEC and are unable to buy back shares.

The next meeting of the Interim Joint Committee on Natural Resources and Energy will be on December 7, 2017. Documents distributed during the meeting are available in the LRC Library.

There being no further business, the meeting was adjourned.

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

### **Minutes of the Sixth Meeting of the 2017 Interim**

November 15, 2017

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

The sixth meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, November 15, 2017, at 10:00 a.m., in Room 129 of the Capitol Annex. Representative Addia Wuchner, Co-Chair, called the meeting to order at 10:04 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, and Reginald Thomas; Representatives Danny Bentley, Robert Benvenuti III, George Brown Jr, Chad McCoy, Russ A. Meyer, Melinda Gibbons Prunty, Steve Riley, and Russell Webber.

Guest Legislators: Representative Donna Mayfield.

Guests: Diane Nelson, Executive Director, Visually Impaired Preschool Services; Kathy Mullen, Director of Education, Visually Impaired Preschool Services; Brittany and Addy Clarkson, VIPS Parent and child; Hatim Omar, MD, Professor, Pediatrics, Obstetrics/

Gynecology, Chief, Division of Adolescent Medicine, University of Kentucky; Dusty Phelps, Licensed Psychological Practitioner, District PBIS Coordinator, Pulaski County Schools; Lori Price, Licensed Psychological Practitioner, Student/Family Support Services Coordinator, Advancing Wellness and Resilience in Education (AWARE) Grant, Pulaski County Schools; Allen Brenzel, MD, Clinical Director, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Joyce Robl, EdD, MS, CGC, Maternal and Child Health Data and Evaluation Officer, Division for Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services; Greg Mitchell, Regional Business Director, and Greg Lamping, Field Reimbursement Manager, Mitsubishi Tanabe Pharma America; Bob Babbage, Babbage Cofounder; Michele Blevins M.S., LMFT, Assistant Director, Division of Behavioral Health, Cabinet for Health and Family Services; Elizabeth M. Caywood, MSW/CSW, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services; Nathan Goldman, Kentucky Board of Nursing; Louis Kelly, Kentucky Board of Physical Therapy; Koleen Slusher, Phyllis Millsbaugh, Branch Manager, Behavior Health Prevention and Promotion Branch, Department for Behavioral Health, Developmental and Intellectual Disability, Cabinet for Health and Family Services; and Eric Clark, Chief of Staff, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Chris Joffrion, Ben Payne, Jonathan Scott, Heather Scott, and Gina Rigsby.

#### **Approval of the Minutes from the October 11, 2017 Meeting**

A motion to approve the minutes of the October 11, 2017 meeting was made by Senator Alvarado, seconded by Senator Raque Adams, and approved by voice vote.

#### **Services for the Visually Impaired Preschool Services (VIPS)**

Addy Clarkson, VIPS Graduate, sang the National Anthem.

Diane Nelson, Executive Director, Visually Impaired Preschool Services, stated that VIPS mission is to empower families by providing educational excellence to young children with blindness and low vision in order to build a strong foundation for reaching their highest potential. VIPS was founded in 1985 because there were no services available to help a parent whose child was diagnosed with blindness. Ninety percent of what a child learns is through vision and 85 percent of brain development occurs before 6 years of age. Kentucky is only one of five states with a program for babies of blindness. VIPS is a nationally accredited and



a 5-star rated program. VIPS services include direct services, family support, play and learn, and center-based programs for preschool, pre-K, Two-Day-2's, Little Learners, and summer enrichment. VIPS teachers travel approximately 118,000 miles per year to see children and families. VIPS serves nearly 550 children in all 120 counties in Kentucky and Indiana. The opioid crisis has increased new referrals. The Department of Education gives \$100,000 to VIPS. The Kentucky School for the Blind does not serve children from birth to three years of age, and refer these children to VIPS. States are looking for leadership from VIPS to help develop the same services for children. VIPS' strategic plan is to serve 1,000 children by 2020, and the state's responsibility to support the solution in the Commonwealth to help serve these children.

Kathy Mullen, Director of Education, Visually Impaired Preschool Services, and Brittany Clarkson, Family Service Coordinator and VIPS Parent, were present to answer any questions.

Senator Raque Adams stated that it is important to note that children are served in all 120 Kentucky counties.

In response to questions by Senator Meredith, Ms. Nelson stated that besides the \$100,000 state funds, VIPS receives funding from grants, gifts, fundraisers, the First Steps program, some school systems that bus children to the day program, and tuition from the Jefferson County Public Schools for the 18 students enrolled in the program.

In response to a question by Representative Wuchner, Ms. Nelson stated that VIPS receives \$100,000 state funds to serve Kentucky students, and Indiana contributes \$121,000 for its students.

#### **Adolescent Suicide Prevention**

Hatim Omar, MD, Professor, Pediatrics, Obstetrics/Gynecology, Chief, Division of Adolescent Medicine, University of Kentucky, stated that it was thought that brain development was complete by adolescence, but it is now known maturation is not complete until about 24 years of age. Approximately 95 percent of youth will die by something they did, and at least half of the deaths are preventable. On an average day 127 people die from suicide and another 2,000 attempt suicide. Suicide took the lives of almost 42,000 Americans in 2016. There were 1.7 times as many suicides as homicides in 2000, and approximately 50 percent of suicides in the United States occur in people who are receiving psychiatric treatment according to information provided from the Suicide Awareness Voices of Education, the Centers for Disease Control and Prevention (CDC), and the Journal of American Medical Association (JAMA). More teenagers and young adults die from suicide than from cancer, heart disease, AIDS, birth defects, stroke,

pneumonia and influenza, and chronic lung disease combined. Suicide prevention spending needs to be increased nationwide. A recent trend shows that girls are turning to more lethal means of suicide. If this trend continues, the number of completed suicides will rise at an even higher pace. More 10 to 14 year olds are dying from suicide than anything else. One-third of suicide does not have to do with mental health issues. Do not wait until a child attempts suicide for the first time to intervene. Know the signs of suicide. Someone with a bipolar disorder has an increased risk of suicide. Major depression is not the leading cause of suicide.

Having a safe place to interact with a caring adult and having something to do will help teens have a better chance of not committing suicide. Youth need human contact to show that someone cares. An effective program of prevention must include the three main areas of influence in a young person's life: youth, parents, educators. It is important to teach youth, parents, teachers, and counselors how to identify the signs of suicide and it is okay to ask for someone to ask for help when feeling suicidal. In October 2000, the University of Kentucky started a Stop Youth Suicide Campaign, and it has helped 20,000 children at risk of committing suicide. The program costs \$50,000 per year and has never received state funds. The Youth Risk Behavior Surveillance System (YRBSS) monitors six types of health risk behaviors that contribute to the leading causes of death, disability, and social problems among youth and adults. It includes a national school-based survey conducted by CDC every two years of 9<sup>th</sup> through 12<sup>th</sup> grade students in public and private schools in the United States. The survey showed that 15 Kentucky students seriously considered attempting suicide, 13 made a plan about how to attempt suicide, 8 attempted suicide, and 3 attempted suicide that resulted in injury, poisoning, or overdose that had to be treated by a doctor. Kentucky's statistics were lower compared to national data.

Lori Price, Licensed Psychological Practitioner, Student/Family Support Services Coordinator, Advancing Wellness and Resilience in Education (AWARE) Grant, Pulaski County Schools, stated that three years ago Pulaski County was awarded a "Now is the Time" Project AWARE-Community Grant by the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services. Pulaski County was awarded the grant because there have been school-based mental health services in the school districts since 2001, there are 16 outpatient facilities onsite that provide services to students, and the school district has provided positive behavioral interventions and supports since 2007. The grant is used to support the training of teachers,

individuals who interact with youth through programs at the community level, parents, law enforcement, faith-based leaders, and other adults in Mental Health First Aid (MHFA) or Youth Mental Health First Aide (YMHFA). The goal is to expand the MHFA and YMHFA to achieve a wider community impact by training a more diverse group of adults who will reach a broader spectrum of adolescents or transition-aged youth within the community.

Mental illness is common during adolescence. Adolescence and young adulthood are critical periods for identification and intervention of mental illness. Early identification and treatment engagement is vital for improved quality of life. Students with mental illness need improved supports to succeed in school, career, college, and life. Project AWARE's goal is to improve mental health literacy among youth-serving adults and to build cross-system capacity for comprehensive mental health approaches in states and communities. It is important to learn to recognize students who are at risk of suicide quicker. Other goals are to improve school safety, improve school climate, increase awareness of mental health issues, and connect children and youth with behavioral health issues with needed services.

Dusty Phelps, Licensed Psychological Practitioner, District Positive Behavioral Intervention and Supports (PBIS) Coordinator, Pulaski County Schools, stated that school-based mental health services are integrated into supports in the educational system. Mental health professionals are made available to students who need services. Supports can be offered so there is minimal interruption to the student's educational process while providing them with the valuable and needed services onsite. Pulaski County wanted to create a model that could be replicated across Kentucky. Teachers and all staff are taught how to recognize warning signs of mental health challenges and how to interact with students who have experienced trauma in their lives. The University of Kentucky's Center on Trauma and Children has provided training to all teachers and administrators on how to recognize signs of trauma, and how to screen for and respond to trauma in classrooms. Partnerships have been formed with community agencies to provide onsite supports. All schools know the process and are monitored in order to have a way to measure a student's progress. Students are taught to become active participants in their mental health care during and after graduation from high school.

Allen Brenzel, MD, Clinical Director, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, stated that the CDC WONDER Compressed Mortality

File, 1999-2015 shows suicide deaths for youth ages 10 to 19 years of age have trended upward despite increased dollars spent for prevention. It could also be attributed to more accurate accounting of suicide deaths across the county as a result of prevention and data surveillance efforts. The CDC WONDER Compressed Mortality File, 2000-2016 showed that Kentucky suicide deaths increased significantly in 2015. Between 2014 and 2015, suicide rates doubled in the 15 to 19 year old age group. The 10 to 14 year old suicide deaths have remained relatively stable since 2012. The Kentucky Incentives for Prevention (KIP) survey shows the percentage of school districts that responded to the survey shows that the Communicare and Pennyrore regions had an increase in rates for 10<sup>th</sup> graders that had seriously considered attempting suicide within the past year. One reason could be high military presence that add additional stressors. Compared to the Kentucky Youth Risk Behavior Survey (YRBS), the KIP survey trends are stable and lower. This could be attributed to fewer urban districts participating in the survey. Rates from the KIP survey are consistent with the YRBS that indicate that suicide attempts of 10<sup>th</sup> graders were higher in the western and northeastern areas of Kentucky. Of the districts that participated in the KIP survey, 6,952 students reported they attempted suicide at least once in the past year.

There is one Regional Prevention Center (RPC) in each of the Community Mental Health Centers (CMHCs). Each of the 14 RPCs receive \$331,873 state funds that are used to leverage other available federal funds. The Unified Community Mental Health and Substance Abuse Prevention and Treatment Block Grant requires \$3,642,982 to be used for prevention. State fund dollars were used to leverage federal funds to receive \$735,018 annually until FFY 2019 for the Partnership for Success grant issued by the Substance Abuse and Mental Health Services Administration (SAMHSA). The Kentucky Zero Suicide Initiative aims to create suicide safer communities and suicide safer care services for youth and young adults 10 to 24 year of age who are at higher risk of suicide. It is a comprehensive system of care approach, integrating best practices in suicide care and prevention and works to bridge clinical competency in suicide care and increased suicide prevention awareness. Kentucky receives \$736,000 annually until FFY 2019 for the Sources of Strength curriculum aimed at reducing suicide by promoting connections between peers and caring adult.

In response to a question by Senator Givens, Dr. Omar stated that the percentage of suicide attempt hospitalization rate was based on every 100,000 Kentucky 10 to 24 year olds.

In response to a question by Representative Wuchner, Dr. Brenzel stated that of the students

who completed the survey, half of the students who had a plan to attempt suicide might follow through with the plan. Students need to be identified earlier to prevent them from progressing from thinking about committing suicide to actually following through with the plan.

In response to a question by Senator Thomas, Dr. Brenzel stated that 15.8 percent of 10<sup>th</sup> graders in the 2016 survey who responded in the Bluegrass Region seriously considered attempting suicide and 8 percent followed through with the plan. There is a difference between thinking about suicide and actually committing suicide.

In response to a question by Senator Meredith, Dr. Brenzel stated that participation in a religion decrease the risk of suicide. Phyllis Millsbaugh, Branch Manager, Behavior Health Prevention and Promotion Branch, Department for Behavioral Health, Developmental and Intellectual Disability, Cabinet for Health and Family Services, stated that risk factors that might indicate academic issues would cause disparity, but not as much around race or ethnic demographics. It is about behaviors that are or are not demonstrated that push a person toward suicidality. There have been increased risk factors across all populations. Mr. Phelps stated that suicide does not discriminate across socioeconomic or racial lines. Ms. Price stated that suicide can happen to anyone.

In response to questions by Senator Julian Carroll, Dr. Brenzel stated that the challenge is to determine if it is an intentional or unintentional death, so intentional and unintentional deaths caused by a drug overdose are lumped together when compiling data. There is a need to take a closer look at unintentional deaths.

In response to questions by Senator Givens, Mr. Phelps stated that exposure to trauma and high levels of stress and cyberbullying increase the risk of suicide. Students who do not know how to report bullying/harassment have a 36 percent higher likelihood to commit suicide. Students who feel their school's method of reporting bullying/harassment is not effective have a 66 percent higher likelihood of attempting suicide. Senator Givens expressed concerned that technology helps someone have the ability to create an alternate reality that shows everything in life is perfect, but in reality, it is not. Mr. Phelps stated that there needs to be more education about the effects of social media. Technology is hurting positive interactions between young persons and adults. Screen time is a deterrent to health while human interactions promote health. Dr. Brenzel stated that teens are vulnerable to isolation and end up only having virtual connections.

In response to a question by Senator Raque

Adams, Dr. Brenzel stated that in 2014 there was a significant increase in suicide attempts and deaths. There needs to be better reporting to get more accurate data. The Community Mental Health and Substance Abuse Prevention and Treatment Block Grant funds are used for all types of prevention not just suicide prevention. Mr. Price stated that the Pulaski Suicide Prevention alliance has helped increase awareness by helping people know about available services.

Representative Benvenuti also expressed concern about society's reliance on technology. There is a real need to focus on reality verses virtual reality where everyone's life seems perfect. Suicides are increasing not decreasing. Ms. Price stated that there is a dark group on social media that feeds on depressed youth. The gaming world isolates and cuts individuals off from the world. There are allot of pressures on youth today.

In response to a question by Senator Thomas, Ms. Price stated that all the schools in Pulaski County have nurses who are trained to recognize signs of trauma or someone who is at risk of suicide. The nurses collaborate with the Family Resource and Youth Services Center (FRYSC) Coordinator who must have a bachelor's degree in human services.

In response to a comment by Senator Alvarado, Dr. Brenzel stated that the risk of hopelessness, which including during economic downturns, is a major risk factor. A rise in suicide rates for adolescents is a universal problem. Mr. Phelps stated that other countries have some of the same suicide risks as the United States because of some of the same risk factors. Human connection and hope are needed to help reduce the risks.

### **Rising Rates of Sudden Infant Death Syndrome (SIDS)**

Joyce Robl, EdD, MS, CGC, Maternal and Child Health Data and Evaluation Officer, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services, stated that for every 1,000 babies born in Kentucky in 2015, 379 babies died before their first birthday. Kentucky consistently has a higher infant mortality rate compared to the United States rates. Data from the Kentucky Vital Statistics, Birth Certificate Files from 2011 to 2015 and Death Certificate Files for the same period indicate that white infant mortality rate per 1,000 births went from 6.0 in 2011 to 6.6 in 2015. African American infant mortality rates for the same timeframe went from 13.3 to 10.8. Sudden Unexpected Infant Deaths (SUID) rates only include deaths to infants one year of age or less where the code is SIDS, accidental suffocation in bed, undetermined, other specified threats to breathing, or unspecified threat to breathing. Prematurity related deaths are an infant born before 37 weeks gestation. Kentucky

infant deaths are caused by prematurity related conditions, SUID, birth defects, perinatal conditions, other medical conditions, injury, and unknown reasons.

Approximately 4,000 infants die suddenly and unexpectedly each year in the United States. In 2016, 103 Kentucky infants died suddenly and unexpectedly. A multidisciplinary local team or the state SUID Case Registry Review Team reviewed 95 of the 103 cases. SUID deaths include sudden infant death syndrome (SIDS), undetermined causes, or accidental suffocation and strangulation in bed. Ninety-four percent of infants have one or more sleep-related risk factors: 1) surface not designed for infant sleep; 2) sharing sleep surface; 3) sleep position; and/or 4) soft beddings and hazards. In 2015, Kentucky received a Sudden Unexpected Infant Death Case Registry grant from the CDC. The goals of the grant are to identify all Kentucky resident unexplained infant death cases, review all identified cases, collect consistent data elements on every case, and analyze, disseminate, and utilize SUID data to inform data-driven policy development and procedural best practices.

In October 2015, the Kentucky Department for Public Health (DPH) launched the Safe Sleep Campaign. It is a statewide effort to raise awareness of the importance of Safe Sleep for babies and lower the number of SIDS-related deaths in Kentucky. The purpose of the Safe Sleep Kentucky campaign is to prevent infant deaths by educating the public in ABCD (sleep alone, on the back, in a crib, and free of danger), the four letters associated with the best practices to make sure infants sleep safely. The campaign aims to help inform new and experienced parents, grandparents, and caregivers on the importance of Safe Sleep for babies. The campaign also hopes to promote Safe Sleep through medical experts and professionals within the healthcare community so they and parents alike become familiar with, practice, and actively promote these simple steps to save babies lives.

In response to a question by Representative Benvenuti, Dr. Robl stated that among infants who experience SUID, there is at least a 30 percent have a substance abuse risk factor, but this percentage could be underestimated because not all of the cases have had a complete investigation. Henrietta Bada, MD, Director, Division of Maternal and Child Health, Department for Public Health, University of Kentucky, Professor, stated that the Department of Public Health, the Department for Behavioral Health, Developmental and Intellectual Disabilities, and the Department for Community Based Services are involved in a hospital's plan of safe care. The major focus is the care of the pregnant woman who is abusing opioids or on treatment, activities or procedures done in the hospital for mothers

and babies, and post discharge so there can be a safe environment for the child while the mother continues treatment. Representative Benvenuti stated that children need to be protected and not sent into an unsafe environment after birth.

In response to questions by Representative Gibbons Prunty, Dr. Bada stated that there are no uniform practices or policies that would automatically open a case with DCBS if a mother has a positive drug screen. Most physicians will contact DCBS if they have a child whose mother is using drugs during pregnancy or in a treatment program to ensure the child goes home to a safe environment. Dr. Robl stated that the department does not support the baby boxes that are distributed by pregnant crisis centers because of safety issues with the box. For a little bit more money, someone can get a pack n' play through the Cribs for Kids program.

In response to questions by Senator Alvarado, Dr. Robl stated that in the past five years, four to six months is the typical age of unexpected infant deaths, but in 2016, the age dropped. The department has not specifically looked at home births, but the vast majority of cases recorded are in birthing hospitals. Senator Alvarado stated that the department should begin to look at this data, because there is a concern there is a higher risk of death in home births.

#### **Advances in the Treatment of Amyotrophic Lateral Sclerosis (ALS) or Lou Gehrig's Disease**

Greg Mitchell, Regional Business Director, Mitsubishi Tanabe Pharma America, stated that very little progress has been made since Lou Gehrig's diagnosis almost 20 years ago. ALS is a rapidly progressive neurodegenerative disease in which the majority of people die within two to five years of diagnosis. Over time, people with ALS lose their ability to perform the basic functions of daily living. Approximately 6,000 people are diagnosed with ALS yearly. It can take up to 12 months to receive a diagnosis. The ALS revised rating scale (ALSFRS-R) is based on speech, salivation, swallowing, handwriting, cutting food, dressing and hygiene, turning in bed, walking, climbing stairs, dyspnea, orthopnea, and respiratory insufficiency. In 2015, edaravone was approved for use as a treatment for ALS in Japan and South Korea. In May 2017, the Food and Drug Administration (FDA) approved Radicava (edaravone) as a treatment option for ALS. The most common side effects are bruising (contusion), problems walking (gait disturbance), and headache.

Greg Lamping, Field Reimbursement and Patient and Access and Services Manager, Mitsubishi Tanabe Pharma America, was present to answer questions.

In response to a question by Representative Wuchner, Mr. Mitchell stated that the clinical trial was a six-month study conducted in Japan.

The Japanese Ministry of Health decided that for ethical reasons that the trial was designed in such a way that placebo patients should be allowed to convert to the active drug after six months.

In response to questions by Representative Bentley, Mr. Mitchell stated that Mitsubishi Tanabe Pharma Corporation is the second oldest pharmaceutical company that originated in 1678. In the clinical trials for Radicava, the primary measure of efficacy was preservation or reduction in the loss of physical function, so there were no mortality studies. Because of the nature of the disease, people can live with the disease different amounts of time.

#### **Diabetes Prevention and Treatment**

Representative Donna Mayfield stated that diabetes is a group of diseases characterized by high blood glucose levels that result from defects in the body's ability to produce and/or use from insulin. The high levels of blood glucose can cause damage to various organs, including the eyes, kidneys, nerves, heart, and blood vessels. Weight, activity level, eating habits, smoking, stress, and/or high blood pressure can be changed to modify the risk of getting diabetes. Things that cannot be changed are age, race, family history, or gestational diabetes. Type 2 diabetes is usually diagnosed in adults over 40 years of age, but is becoming more common in younger adults and children. According to CDC, the 12 percent of adults in Kentucky had been diagnosed with diabetes by 2014. The Institute for Alternative Futures (IAF) projects over 14 percent of Kentuckians will be diagnosed with diabetes by 2030. IAF estimates the economic impact in Kentucky in 2020 could cost \$6.5 billion. EMS should carry quick acting insulin with them at all times, because it could mean life or death for someone.

Representative Russ Meyer stated that almost 90 percent of people living with type 2 diabetes are overweight or have obesity. People who are overweight or have obesity have added pressure on their body's ability to use insulin to properly control blood sugar levels, and are therefore more likely to develop diabetes. The total cost of obesity in Kentucky is \$36.31 billion with \$4.17 billion of the total in Medicare costs. The Diabetes Prevention Program is now covered by Medicare. Diabetes self management education (DSME) shows economic benefit and merits major support. Increase in diabetes screening in health plans and Medicare will identify new cases.

In response to questions by Representative George Brown, Representative Mayfield stated that her insurance covers the cost of the insulin pod and she only pays \$1 every 3 days for the co-pay. There is a false sense of security that the insulin pod will take care of everything automatically so there is no need to carry extra



supplies. The pod has a small meter that controls the pod. When the pod is put on, the controller tells it how much insulin is needed on a 24 hour basis and also integrates the blood sugar testing. She stated that she did not know how much it would cost for EMS vehicles to carry insulin but would get the information for the committee. Representative Bentley stated that the retail price is \$799.50 for a pod of 30 that last 90 days.

Senator Alvarado stated that EMS vehicles are permitted to carry insulin. There are some concerns that EMTs do not want to administer high doses of insulin without knowing someone's metabolic status, because it could cause more harm than good to administer the insulin. It is probably up to local directors to make the decision to carry it in the EMS vehicle.

#### **Legislative Hearing on the FFY 2018-2019 Unified Community Mental Health and Substance Abuse Prevention and Treatment Block Grant**

A motion that the FFY 2018-2019 Unified Community Mental Health and Substance Abuse Prevention and Treatment Block Grant does meet the standards and criteria set out in KRS 45.353 was made by Senator Raque Adams, seconded by Senator Alvarado, and accepted by voice vote. Michele Blevins M.S., LMFT, Assistant Director, Division of Behavioral Health, Cabinet for Health and Family Services, was present to answer questions.

#### **Legislative Hearing on the FFY 2018-2020 Temporary Assistance for Needy Families (TANF) Block Grant**

A motion that the FFY 2018-2020 Temporary Assistance for Needy Families (TANF) Block Grant does meet the standards and criteria set out in KRS 45.353 was made by Senator Raque Adams, seconded by Senator Alvarado, and accepted by voice vote. Elizabeth M. Caywood, MSW/CSW, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services, was present to answer questions.

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

The following administrative regulations were on the agenda for consideration: **201 KAR 9:260** – establishes the professional standards for prescribing and dispensing controlled substances; **201 KAR 13:040** – prescribes the forms, required examinations, experience, renewal requirements, and provisions for inactive status required for licensees; **201 KAR 13:060** – exempts from licensure renewal licenses for active members of the military service, provides reciprocity between the states, and provides licensure by endorsement; **201 KAR 20:057** – establishes the scope and standards of practice for an advanced practice registered nurse; **201 KAR 22:020** – establishes the criteria for eligibility, methods,

and procedures of qualifying for a credential to practice physical therapy in Kentucky; **201 KAR 22:040** – establishes the requirements and procedures for the renewal and reinstatement of credentials; **201 KAR 22:070** – establishes the requirements a foreign-educated physical therapist shall satisfy to become credentialed in the state of Kentucky; and **900 KAR 11:010** – establishes the requirements for medical review panels in accordance with KRS Chapter 216C. A motion to accept the referred administrative regulations was made by Senator Raque Adams, seconded by Senator Alvarado, and accepted by voice vote.

#### **Adjournment**

There being no further business, the meeting was adjourned at 12:32 p.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 6th Meeting of the 2017 Interim**

November 13, 2017

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

The 6th meeting of the Interim Joint Committee on Education was held on Monday, November 13, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative John Carney, Co-Chair; Senators Julie Raque Adams, Danny Carroll, Jimmy Higdon, Stephen Meredith, Gerald A. Neal, Reginald Thomas, Johnny Ray Turner, Stephen West, and Mike Wilson; Representatives Danny Bentley, Jim DeCesare, Mark Hart, Regina Huff, Reginald Meeks, Phil Moffett, Rick G. Nelson, Melinda Gibbons Prunty, Steve Riley, Attica Scott, James Tipton, and Russell Webber.

Guests: M. Shelton and Gene Basil, SKYCTC; Erik Carlson Landy, KDE; Chad Collins, KHSAA/KDE; Dr. Gary Finkbonner, DJJ; Wayne Young, CASA; and Moms Demand Action members Sheila Anderson, Diane Cahill, Karen Conley, Dr. Joe Brennan, Sylvia Burns, Trish Ramey, Judy Wulff, Amanda Clark, Sarah Coker, Kristal Smith, Dana Walker, Lynsey Sugarman, Lisa Satin, Nancy Birdwhistle, Lori Looner, Connie Courtney, and Kavin Soltaw.

LRC Staff: Jo Carole Ellis, Joshua Collins, Lauren Busch, and Christal White.

#### **Approval of the minutes of the October 9, 2017, meeting**

On a motion by Representative Nelson and a second by Representative Meeks, the minutes of the October 9, 2017, meeting were accepted by voice vote.

#### **Presentation: Essential Skills – Voluntary Drug Testing**

Mr. Randy Poe, Superintendent, Boone County School District, discussed the relationship between academics and Northern Kentucky (NKY) industries helping students become career, college, and life ready. He introduced panel members as Polly Lusk Page, Executive Director, Northern Kentucky Education Council; Jay Brewer, Superintendent, Dayton Independent School District; Jack VonHandorf, Principal, Notre Dame Academy; and Angie Ferguson, Executive Director, Drug Free Clubs of America (DFCA).

Ms. Page said the Northern Kentucky Education Council (NKEC) is the backbone organization for alignment of education initiatives. The NKEC serves as a catalyst for collaboration, change, and progress toward regional education goals and includes seven counties, 19 public school districts, three postsecondary institutions and 85,504 students. The collective impact model holds leaders accountable and brings family, community, and schools together to change the outcomes and odds for children and youth.

The NKEC organization of CEO Leadership Advisors, the Board of Directors, the Executive Director, and over 600 volunteers support these goals. The Council includes action teams who oversee regional education goals to reduce barriers for student learning, college and career readiness, education excellence, education accessibility, lifelong learning, and advocacy.

The 21<sup>st</sup> Century Essential Skills Toolkit was designed to support educators to ensure students are prepared with essential skills, including showing up on time, being drug free, and being identified by NKY employers as college, career, and life ready. The NKEC ensures all families and youth are thriving and that all schools promote a culture of contribution. The NKEC has regional programs and activities to nurture and develop 21<sup>st</sup> Century skills and aligns itself with the program, including 17,000 youth from both public and parochial schools in the area.

Ms. Page said an increasing number of businesses contribute to the Northern Kentucky Drug Free Clubs of America (NKY DFCA) for the development of this serious problem affecting children. By providing effective prevention tools, Dr. Brewer said the organization empowers parents, educators, and communities to build drug-free youth. To become a DFCA member, students must volunteer to be drug tested and make a commitment to remain drug free. Dr. Brewer said universities, businesses, and communities should encourage membership in DFCA from 7<sup>th</sup> through 12<sup>th</sup> grade. He said counselors inform students that success is evaluated by American College Testing (ACT) scores, a high grade point average (GPA), community service, and extracurricular school

activities.

The NKY DFCA program is facilitated through a partnership with St. Elizabeth Hospital. As encouragement, NKY DFCA is seeking ways to reward students for voluntary participation in the club. Dr. Brewer said risk factors increase a person's chances for drug abuse and preventive factors can reduce that risk.

Ms. Ferguson said the DFCA was founded by her father and one of his co-workers as a result of frustration caused by the loss of young lives as a result of drug overdoses. As retired Cincinnati firefighters, their concern was the lack of preventive drug abuse programs as compared to the number of rehabilitation and treatment facilities growing at a steady rate. The idea of forcing an individual into a prevention program would not garner the same results as helping a young person volunteer to remain drug free. As a result, the DFCA program was created.

In 2005, the DFCA program was developed by creating a safety net, reinforcing good choices, re-tooling peer pressure, changing choices, and backing parents. Local and national officials raved at the success of the program. With over 2,300 members, they rallied to join a march proclaiming drug-free status and received an award from the Federal Bureau of Investigation.

A new DFCA program begins with the appointment of student officers who are charged with organizing a marketing plan, preparing in-school reports, and tailoring the program to fit their school culture. Once the DFCA program is organized, it is rolled out to the student body. Once drug testing is completed and the results known, students are given a full color photo ID card which earns them rewards. The reward benefits often encourage enrollment to students who may otherwise be on the fence regarding drug use. A peer-led effort has a huge impact on students who are considering experimenting with drugs.

School personnel is not informed if students test positive for drugs. The DFCA contacts parents and explains the potential health risks and damage to the student's future. Parents receive a great deal of support from DFCA, and studies have shown discussion of expectations about drugs and alcohol within families can cut the risk of drug use from 42 to 50 percent. "Take Five" is another layer of the program, prompting parents to continue ongoing dialogue about drugs. As students sign up for DFCA, parents are automatically sent an email to ensure awareness. Students expressing concern about parental drug use are encouraged to break the generational cycle of drug dependency.

Organizations work daily to fight drug abuse, but the DFCA believes expansion of the program begins by working together. Through the stakeholder system of growth, organizations

are opening DFCA branches to provide strategy in their own communities, and protect the potential of local youth. Experts agree that an ideal drug prevention strategy must be a combined effort from the schools, community, and parents.

Used as a means to monitor and analyze the success and impact of the DFCA program, each school receives Prevention on Purpose (POP) annually. POP is a comprehensive, tailored metrics package of peer-led programs, protective tools, and positive reinforcement.

The DFCA program requires community businesses to generate parental, school, and community involvement into a common effort. Positive peer pressure and added incentives contribute to the success of the program.

Mr. VonHandorf reported 72 percent of the Notre Dame Academy students are members of the DFCA, with 91 percent being freshmen students. He said there are efforts to lower the initial cost of enrollment to entice more members. Making a drug-free choice and having community support as a high school student may provide the necessary tools to make good choices later in life.

In response to a question by Senator Wise, Dr. Vonhandorf said the DFCA club begins in the 7<sup>th</sup> grade since the battle against drug abuse now begins at earlier ages.

Representative Tipton said he has prefiled HB 312, which requires mandatory drug education to begin in elementary school. Dr. Brewer said DFCA encourages healthy choices but agreed education is needed and is part of what their organization does. In response to a question by Representative Tipton, Dr. Brewer said children involved in the DFCA are connected to parents through emails but stressed drug education is essential in family dialogue and that it is not only viewed as a school education issue. Ms. Ferguson said parental involvement is integrated by continual talking.

In response to a question by Representative Bentley, Ms. Ferguson said panels are changed yearly according to the drug being abused and the reliability of tests available. The DFCA buys high quality kits made in the United States, follows up with lab work and a medical review officer, and offers the family confidential support. The DFCA uses an adulterant panel for altered drug tests, requiring preliminary results to be sent to a lab and followed up by a doctor who verifies a student's prescribed medication matches the substance found. One factor is the level or threshold of drugs in a student's system cannot always prove ingestion.

In response to a question by Representative Bentley, Ms. Ferguson said the DFCA does not have a collaboration with Generation Rx. Regarding liability for false positives, DFCA

maintains liability insurance on all employees, volunteers, and members.

In response to a question by Representative Huff, Ms. Ferguson said the stakeholder system is grown by networking with an existing entity in the community to build a team, identifying the focus of each employee or volunteer, and building a cultural change for the community. Community support and schools seeking cultural change are a basis for the success of the program. Representative Huff applauded the DFCA for their built-in accountability and in-school and community rewards to students who remain drug free.

In response to Representative Meek's question, Ms. Ferguson said the DFCA has a messaging system with a captive audience that is filtered to the parents and to the students. Also, community organized drug take-back days bring attention and spread awareness about widely abused prescription drugs and proper disposal of medications.

In response to a question by Senator Carroll, Dr. VonHandorf said the Keeping in Touch or Keeping it Together (KIT) survey is utilized to get a student's understanding of alcohol and drugs. It is a voluntary survey provided by the state and is a tool used to help combat mixed messages about the legalization of marijuana. Dr. Brewer said challenges supporting the legalizing of marijuana present challenges in schools. Ms. Ferguson said children experiencing second and third generation family addictions often understand the need to break the generational cycle.

Representative Carney congratulated DFCA for the ability to partner with school districts and independent businesses and bringing positive peer pressure by giving students a safe way to get help. In response to his question, Ms. Ferguson said a one-time fee of \$67 is charged for the entire program and DFCA uses 94.6 percent of funds for the program. Administrative rates are minimal due to community support with office space donation, IT support, and reproduction of materials, an indication of the importance of collaboration and networking.

In response to a question by Representative Carney, Ms. Page said a fund has been established at NKEC to which business partners contribute as an offset for families who are unable to afford the program. The Council formed a steering committee made of judge executives, superintendents, the CEO from St. Elizabeth Health Care, and others. They also formed a tactical committee that will have a campaign launch in the fall. Dr. Brewer said St. Elizabeth, veteran organizations, the board of education, and teachers have sponsored students to offset some of the cost so no child is left out if they



want to be tested. Mr. Poe said St. Elizabeth pays a portion of the cost to ensure minimal parental cost. Ms. Ferguson said the startup amount is tailored to the needs of the community by a core group setting an affordable level for parents. Entities working with DFCA hosts fundraisers to make up the difference, and many career and technical schools provide it free to their students.

In response to a question by Representative Gibbons Prunty, Ms. Ferguson said communication with disengaged parents is often a challenge but friends providing positive peer pressure has a huge impact. Parental communication by texts, emails, and phone calls usually proves to be successful as many parents with previous or current drug battles don't want their children to struggle; however, follow-up can often be a challenge. The conversation is a forum between parents and students and has different dynamics as an open conversation rather than with police involvement. Mr. Poe said school-level survey results indicate a positive increase with attitude and culture as benchmarks and goal lines are established and student engagement and empowerment is measured. Dr. Brewer suggested the science of addiction reveals kids who delay the use of drugs after 18 years of age can have a profound effect on their lives.

#### **Presentation: Essential Skills – Cultivating Work Ethic and Soft Skills**

Kim Phelps, Vice President of Communications and Public Policy at the Bowling Green Area Chamber of Commerce, introduced herself and Dr. Eric Keeling, Principal of the Warren County Area Technology Center (WCTC). Ms. Phelps described the South Central Kentucky (SCK) Learning About Unique New Careers Here (LAUNCH) as a community initiative bringing education and business communities together. She said the struggle for businesses to get quality, skilled workers is a concern heard daily from businesses in Warren County. The projected demand for expected regional growth over the next 10 years is identified in the career sectors of construction, healthcare, hospitality, manufacturing, professional services, and in transportation, distribution and logistics. Each sector was outlined with levels of knowledge, skill, and ability to qualify for specific positions and the expected income for each position.

Ms. Phelps outlined the guiding principles for SCK LAUNCH's achievement as supporting student-driven leadership; building self-awareness; becoming empowered; being a career-wise graduate; providing students with meaningful opportunities to explore, experience, and connect to build career skills and knowledge; and supporting the attainment of nationally-potable industry credentials and postsecondary courses to launch future career paths. The

profile of an ideal graduate includes a globally-minded student, an emotionally intelligent student, and a life-long learner. SCK LAUNCH includes employability skills aligned with these characteristics.

SCK LAUNCH created tactical teams to develop solutions ensuring maximum career opportunities for students in several ways. The experience team designed a career expo for eighth grade students; the shadowing team provides quality experiences for high school students to increase career awareness and local opportunity; student-led leadership provides an opportunity for all students to gain the necessary skills for their future; education externships create a unique and engaging opportunity for educators to experience and connect with the local economy; and communication and marketing promotes the importance of career awareness as it informs and engages stakeholders.

In October, 2017, five manufacturers welcomed 130 students to career shadowing experiences, exposing them to many facets of the business, including but not limited to interviewing, finance, marketing, accounting, quality assurance, human resources, manufacturing, and employability skills.

Educator externships allow teachers to observe companies in the community to see how specific classes may relate to specific jobs, which generated explanation as to methods of teaching and how they are utilized in the workplace. In partnership with local hospitals, all area high schools are implementing career-focused models such as medical arts, phlebotomy, EKG technician, pre-nursing, and fire science or EMT-type certification.

Critical elements of reaching this common goal are cooperation and flexibility among the local Chambers of Commerce, local businesses, and the community. Whether entering the workforce immediately after high school graduation or advancing to higher education, all students must be provided equal opportunities.

#### **Presentation: Be the Change Program**

Dr. Keeling said WCTC was built in 2006 in an effort to meet the needs of secondary students. Upon his arrival in 2013, he introduced the Be the Change (BTC) program, a character and work ethics program focused on culture shift, including skill sets, attendance, punctuality, attitude, and manners. Focus is also placed on leadership roles, industry partnerships, industry certifications, and demands from industry partners.

Dr. Keeling said the BTC culture includes having critical employment skills, dependability, respect, honesty, integrity, and character. The motto of WCTC is "Excellence - No Apologies - No Excuses".

Kentucky's forecast for high-wage

and high-demand industry sectors are IT services, construction, healthcare, advanced manufacturing, and transportation and logistics. WCTC offers many of the programs. The school has incorporated computerized manufacturing and machining, robotics and automation engineering, and welding technology. Students who attend WCTC during their junior and senior years have an opportunity to earn enough credits to complete one year of college. The Kentucky Occupational Skills Standards Assessment and industry certificates such as Automotive Service Excellence, Carpentry, Robotics and Automation, Health Sciences, Information Technology, American Welding Society, and Machining Level 1 all lead to a career-ready focus.

Mentor Mondays include monthly meetings with plant managers or HR directors who speak to students about expectations, company offerings, and the type of industry and job, and utilize the 7 Habits of Highly Effective Teens curriculum. An industry tour is facilitated by career pathways in the fall and is considered a year-long interview. In April, interviews are held, and salary, tuition coverage, and benefits are all determined, creating a seamless transition. With all major companies in Warren County included, some students are hired as a result of the experience gained while working.

The BTC program teaches students to give back as graduates by volunteering to work with students or buying supplies for schools, and businesses can provide donations with materials or funding. As partnerships have formed, more people have become involved and the Chamber of Commerce has been a huge partner with the SCK LAUNCH program.

The BTC educational partners include Warren County Public Schools, Bowling Green Independent Schools, South Central Kentucky Community and Technical College, and Western Kentucky University's graphic design, marketing and architecture departments.

The BTC program aids students in understanding strong work ethic; attendance; culture of respect; integrity; character; job vs. career; workforce and economic impact; and the amount of tuition, benefits, and salary the students will receive. Students realize focus is placed on a career pathway rather than a job. Dr. Keeling said students who are not college material should consider a career pathway due to the cost to earn a college degree.

Senator Wise commended Warren County's involvement for their partnership with the Chamber and business investors and described it is as a model that should be practiced throughout Kentucky.

In response to a question by Representative Tipton, Dr. Keeling said it would be very difficult to have success without the availability of



tuition costs and scholarships provided through community partners. He said developing a successful, challenging program with high expectations is an enticement for additional companies to participate. KDE advised WCTC that OSHA 10 training would be advantageous for students and companies so classes will begin once staff has been trained. Ms. Phelps said once businesses realized what was needed, they were happy to provide services. She said requests and offerings from donations have had a snowball effect in the community.

Senator Carroll said the model is the way of the future and taking advantage of the resources within the community is key.

Senator Wilson said he is impressed with the Chamber's work and the partnerships that have grown within their community.

In response to a question by Representative Gibbons Prunty, Dr. Keeling said students are selected by an application process, a one-page essay as to why they want to work at a particular place, the student's GPA, and most importantly behavior referrals. Dr. Keeling said passion plus purpose equals excellence.

#### **Review of Administrative Regulation**

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics. The amendments to this regulation were recently heard by the Administrative Regulation Review Subcommittee and were subsequently referred to the committee. There were no questions on the amendments.

#### **Other Business**

The next meeting will be held on Monday, December 11<sup>th</sup> in the Capitol Annex, and the discussion topic will be peer networks for students with special needs.

#### **Adjournment**

There being no further business to discuss, the meeting was adjourned at 3 p.m.

## **LEGISLATIVE RESEARCH COMMISSION**

### **Minutes of the 558th Meeting 2017 Interim**

November 1, 2017

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

The 558th meeting of the Legislative Research Commission was held on Wednesday, November 1, 2017, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Jeff Hoover, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jeff Hoover, Co-Chair; Senators Jimmy Higdon, Ray S. Jones II, Dennis Parrett, Dorsey Ridley, Dan "Malano" Seum, Damon Thayer, and Mike Wilson; Representatives Kevin D. Bratcher, Dennis

Keene, David Meade, Jonathan Shell, and Wilson Stone.

LRC Staff: David Byerman and Christy Glass.

There being a quorum, Representative Jeff Hoover called the meeting to order.

Speaker Hoover called for a motion to approve the minutes of the October 4, 2017, meeting; accept and refer as indicated items A. through E. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items A. through D. under New Business; and, accept and refer as indicated items 1. through 16. Under Communications.

A motion was made by Representative Shell and seconded by Senator Thayer. Speaker Stivers asked for discussion. Seeing none, a roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

#### **STAFF AND COMMITTEE REPORTS**

Information requests since October 1, 2017.

Committee Activity Reports since October 1, 2017.

Report of the Administrative Regulation Review Subcommittee meeting on October 10, 2017.

Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy, during its meeting on October 5, 2017.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services, during its meeting on October 11, 2017.

#### **NEW BUSINESS**

Referral of prefiled bills to the following committees: **BR 248** (an act relating to educational programs) to **Education**; **BR 247** (an act relating to kinship care), **BR 131** (an act relating to the safe disposal of controlled substances) and **BR 163** (an act relating to personal jurisdiction) to **Health and Welfare and Family Services**; **BR 143** (an act relating to unborn children and declaring an emergency), **BR 105** (an act relating to sex offenses), **BR 271** (an act relating to the safety of canines and felines), **BR 192** (an act relating to personal jurisdiction), **BR 164** (an act relating to animal safety) and **BR 305** (an act relating to public protests) to **Judiciary**; **BR 234** (an act relating to estheticians) and **BR 193** (an act relating to occupational licensing regulations) to **Licensing, Occupations, and Administrative Regulations**; **BR 81** (a concurrent resolution urging the United States Fish and Wildlife Service to issue more migratory bird depredation permits and Kentucky Farm Bureau-administered subpermits to allow Kentucky farms to legally take black vultures that are depredating on their livestock),

**BR 18** (an act relating to telecommunications) to **Natural Resources and Energy**; **BR 204** (an act relating to retirement benefit participation for members of the General Assembly), **BR 213** (an act relating to retirement benefits for legislators), **BR 235** (an act relating to retirement benefit participation for members of the General Assembly and declaring an emergency), **BR 285** (a joint resolution applying for an Article V convention to propose amendments to the Constitution of the United States that impose fiscal restraints on and limit the power and jurisdiction of the federal government, and requesting Congress to similarly propose such amendments) and **BR 230** (an act relating to retirement benefits for legislators) to **State Government**.

Referral of administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **806 KAR 3:011** (Repeal of 806 KAR 3:010, 806 KAR 3:020 and 806 KAR 3:220) and **806 KAR 3:210** (Privacy of consumer financial and health information) to **Banking and Insurance**; **787 KAR 1:070** (Reasonable time for protesting claim), **803 KAR 1:100** (Child labor), **803 KAR 1:121** (Repeal of 803 KAR 1:030 and 803 KAR 1:040) and **803 KAR 6:011** (Repeal of 803 KAR 6:010) to **Economic Development and Workforce Investment**; **13 KAR 2:120** (Comprehensive funding model for the allocation of state general fund appropriations to public universities), **13 KAR 2:130** (Comprehensive funding model for the allocation of general fund appropriations to the Kentucky Community and Technical College System institutions: Adult Education and Literacy), **13 KAR 3:050** (GED® eligibility requirements), **702 KAR 7:065** (Designation of agent to manage middle and high school interscholastic athletics), **780 KAR 3:072** (Attendance, compensatory time, and leave for certified and equivalent service) and **780 KAR 3:080** (Extent and duration of school term, use of school day and extended employment) to **Education**; **201 KAR 9:260** (Professional standards for prescribing and dispensing controlled substances), **201 KAR 13:040** (Licensing; application, examination; experience; renewal; and inactive status), **201 KAR 13:060** (Military service; reciprocity), **201 KAR 20:057** (Scope and standards of practice of advanced practice registered nurses), **201 KAR 22:020** (Eligibility and credentialing procedure), **201 KAR 22:040** (Procedure for renewal or reinstatement of a credential for a physical therapist or physical therapist assistant), **201 KAR 22:070** (Requirements for foreign-educated physical therapists) and **900 KAR 11:010 & E** (Medical review panels) to **Health and Welfare and Family Services**; **500 KAR 8:010** (Certification of breath alcohol

analysis instrument operators), **500 KAR 8:030** (Administration of breath alcohol tests and chemical analysis tests) and **501 KAR 6:110** (Roederer Correctional Complex) to **Judiciary**; **201 KAR 15:030** (Fees), **201 KAR 15:050** (Apprenticeship and supervision requirements), **201 KAR 15:110** (Funeral establishment criteria), **201 KAR 45:071** (Repeal of 201 KAR 45:070), **201 KAR 45:110** (Supervision and work experience), **201 KAR 45:120** (Renewal, reinstatement, and inactive status), **201 KAR 45:170** (Application procedures), **804 KAR 5:070** (Minors) and **804 KAR 6:020** (Advisory opinions) to **Licensing, Occupations, and Administrative Regulations**; **739 KAR 2:050** (Volunteer fire department aid) to **Local Government**; **402 KAR 3:010** (Timber sales) and **402 KAR 3:030** (Best management practices for timber harvesting operations) to **Natural Resources and Energy**; **17 KAR 3:020 & E** (Charges for room and board, goods and services at state veterans' nursing homes) and **106 KAR 2:040** (Survivor benefits for death of a National Guard or Reserve Component member) to **Veterans, Military Affairs, and Public Safety**.

From Senator Julie Raque Adams and Representative Addia K. Wuchner, Co-Chairs of the Interim Joint Committee on Health and Welfare and Family Services: Memorandum request to meet on December 13, which is outside the interim. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Jeff Hoover: Memorandum authorizing the Director of the Legislative Research Commission to contact the Executive Director of the Council of State Governments for the purpose of offering the City of Covington in the Northern Kentucky/Greater Cincinnati region as the host state and city for the 2018 National Conference of The Council of State Governments.

## COMMUNICATIONS

From the Finance and Administration Cabinet: Monthly Investment Income report for the month of September 2017.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Period 3 and year-to-date activity for the period of July 1, 2017, through September 30, 2017.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending September 30, 2017.

From the Kentucky Fire Commission, State Fire Rescue Training: FY17 Financial Disclosure Reports.

From the Finance and Administration

Cabinet, Commonwealth Office of Technology: 2017 Personal Information Security and Breach Notification Annual Report.

From the Justice and Public Safety Cabinet: Annual Report Pursuant to KRS 196.736.

From the Cabinet for Economic Development: FY17 Linked Deposit Loan Investment Program Annual Report.

From the Cabinet for Health and Family Services: The Kentucky Commission on Services and Supports for Individuals with Intellectual and Other Developmental Disabilities 2017 Annual Report.

From the Kentucky Personnel Cabinet: 2017 Executive Summary of the Kentucky Employees' Health Plan.

From Kentucky Employers' Mutual Insurance: 2018 Administrative Budget and Financial Status and Actuarial Condition. (Staff suggested committee referrals: State Government, Economic Development and Workforce Investment, and Appropriations and Revenue.) (Copy available upon request.) Pursuant to KRS 342.813(3)(b).

From the Department for Local Government: 2018 Special Purpose Governmental Entity Compliance Report. (Staff suggested committee referrals: Local Government and Appropriations and Revenue.) (Copy available upon request.) Pursuant to KRS 65A.

From the Auditor of Public Accounts: FY17 Report of the Audit of the Kentucky Department of Veterans' Affairs Veteran's Program Trust Fund. (Staff suggested committee referrals: Veterans, Military Affairs, and Public Protection and Appropriations and Revenue.) (Copy available upon request.)

From the Auditor of Public Accounts: FY17 Report of the Audit of the Kentucky Department of Veterans' Affairs I Support Veterans License Plate. (Staff suggested committee referrals: Veterans, Military Affairs, and Public Protection and Appropriations and Revenue.) (Copy available upon request.)

From the Kentucky Personnel Cabinet: Quarterly Report as of September 30, 2017. (Staff suggested committee referral: State Government.) Pursuant to KRS 61.392.

From the Kentucky Board of Physical Therapy: 2019-2020 Biennium Budget Request. (Staff suggested committee referrals: Health and Welfare and Family Services, and Appropriations and Revenue.) (Copy available upon request.) KRS 327.080.

From the Office of State Budget Director: Report detailing preliminary estimates for the General Fund, Road Fund, and Tobacco Fund for FY18 (Staff suggested committee referral: Appropriations and Revenue.) Pursuant to KRS 48.120(2).

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS Minutes of the 6th Meeting of the 2017 Interim

November 17, 2017

### Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, November 17, 2017, at 10:00 AM, Jim Beam American Stillhouse, 526 Happy Hollow Road, Clermont, KY 40110. 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 Julian M. Carroll, Jimmy Higdon, Dan "Malano" Seum, and Damon Thayer; Representatives Dennis Keene, Chad McCoy, C. Wesley Morgan, David Osborne, Phillip Pratt, and Walker Thomas.

**Guests:** Senator Stephen Meredith; Representative Lynn Bechler; Kevin Smith, Vice President, Kentucky Beam Bourbon Affairs, Beam Suntory, Inc.; Eric Gregory, President, Bryan Alvey, Senior Director, Governmental and External Affairs, Kentucky Distillers' Association; Danny Percell, Chairman of the Kentucky Board of Funeral Directors and Embalmers; Julie Campbell, Board Administrator, Kentucky Board of Hairdressers and Cosmetologists; Sonja Minch, Board Administrator, Kentucky Board of Barbers.

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

### Minutes

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

### Welcome to Jim Beam

Kevin Smith, Vice President, Kentucky Beam Bourbon Affairs, Beam Suntory, Inc. told the committee that in 2014 Suntory Holdings purchased Beam Inc. creating a high performance team now known as Beam Suntory, with headquarters in Chicago. Global distribution is key. Their performance objective is to become the world's fastest growing spirits company. Jim Beam recently redesigned the Beam bottle to market to new customers. The Grand Dad plant in Frankfort is the only plant in the United States that makes its own plastic bottles. Beam Suntory is focused on giving back by being more community and charity involved.

### Kentucky Distillers' Association Update



## and Legislative Agenda

Eric Gregory, President, Kentucky Distillers' Association (KDA), said that legislation passed in recent years has been a tremendous help to the bourbon industry's growth and success. In Kentucky, bourbon is an \$8.5 billion industry and dominates bourbon production worldwide. Bourbon is also a tourism driver for the Commonwealth. In 1999 the KDA created the Kentucky Bourbon Trail tour. This gives visitors an education in the art and science of creating bourbon. In 2012 the KDA partnered with the craft distillers to create the Kentucky Bourbon Craft Tour to showcase the state's micro-distilleries.

This year the KDA hired a Director for Social Responsibility. They have developed best practices in alcohol responsibility standards, and have partnered with Lyft to bring on-demand safe rides in Bardstown and Versailles. During the holidays, there will be a public service announcement that offers \$20 off a ride with discount code SAFERIDEKY17.

The bad news, there is competition in all 50 states. In fact, Kentucky ranks 11th in the country in the number of distilleries operating. Fortune magazine predicts that in five years there will be better bourbon produced in other states. One reason for strong competition is the high tax structure in Kentucky. If Kentucky loses the historic monopoly, revenue and investment in jobs will be lost.

Bryan Alvey, Senior Director, Government and External Affairs, KDA, told members the KDA is looking for legislative opportunities to make the industry stronger. Bourbon without Borders is the concept of having visitor center shipping at each distillery. The number one request from visitors is to be able to ship this product to their home. This is a solution to packing bottles in their suitcase. This will help the industry in the same way that California is helping the Napa Valley area. Visitor centers are retailers, so the product will go through the three-tier system and taxes will be collected. KDA would also like to restructure the alcohol tax laws to enhance the growth of the industry. Finally, KDA takes social responsibility seriously and is taking the lead to make Kentucky the model.

Representative Morgan commented that the Jim Beam Stillhouse was one of the finest facilities he has ever visited.

Senator Thayer commented it is not the job of government to create jobs, but to help create an environment where business and industry can create jobs. Legislation passed during the last four years has removed prohibition era laws and eliminated artificial barriers to free enterprise. The bourbon industry is a great example of this by blending the agriculture, manufacturing, and

tourism economies.

Senator Higdon commented that the bourbon industry provides good paying jobs in areas where there are distilleries. However, the agriculture sector also benefits because of the demand for thousands of acres of corn. The timber industry benefits because of the oak barrels that are produced in Kentucky. Independent Stave in Lebanon produces 1 million barrels a year that stay in Kentucky. The economic impact runs across the state.

Senator Carroll commented that Jim Beam has just built a new bottling plant in Frankfort. Franklin County has more distilleries than any other Senate district. Senator Carroll stated that he has never cast a vote against bourbon in Kentucky.

### **Continuing Education for Embalmers and Funeral Directors, SB 154 2017 Regular Session**

Senator Stephen Meredith said when a constituent comes to a legislator they listen. This issue was personal due to the regulation placing a financial burden on the business community, even more to businesses in small or rural communities. SB 154 addresses increasing continuing education hours for embalmers and funeral directors from six to twelve. Original language in the statute says that "a minimum of six hours shall be attained from programs attended in a live, interactive, in-person format." This language can have a substantial negative impact if you work in a rural community, even more so for a sole proprietor. A stand-alone business would have to contract for coverage when attending these programs. Senator Meredith stated that he was not aware of any other profession that required in-person continuing education credits. The landscape for education is changing and college degrees and certification can be obtained online in an affordable, convenient manner while at your home or business.

Senator Meredith said it was his belief that adding the in-person language had good intentions. However, the reality is that it has a regressive and discriminatory impact on stand-alone and sole proprietor funeral homes serving rural communities. It is a classic example of government over-reach and appears archaic in this day and time when continuing education hours can be obtained via the internet.

Danny Percell, Chairman of the Kentucky Board of Funeral Directors and Embalmers said in the past, as a school teacher, he has seen students progress when they had interaction with an instructor and fellow students. As the owner of three funeral homes, it is important for his directors to receive all updates and requirements of the funeral and embalming industry. Most disciplinary problems are due to lack of understanding of the new rules, laws, and

regulations. One business was fined because it had been sending in the same CEU program from the intent and no one had attended programs in person until it was made mandatory. Kentucky has the lowest number of required CEU's and is one of a handful of states that do not require some in-person attendance.

The Funeral Directors Association of Kentucky has done a good job of making sure that the CEU programs are offered in all regions of the state. There are 512 funeral homes in the state and programs are offered within a 30 mile range. It is in the best interest of the consumer and the profession if the CEU requirements are unchanged.

Senator Schickel said that if the votes to pass the bill to remove the in-person language are there, the bill will be heard in committee during the upcoming session.

In response to a question from Representative Koenig, Mr. Percell said there are four sets of license in the Commonwealth; 1. an establishment, 2. a dual license is required for a full service establishment, where funeral directing and embalming is being performed, 3. an embalming establishment only requires a licensed embalmer, and 4. a visitation, ceremonial facility where there is no embalming, and only a licensed funeral director is required. There are more assistants than licensees in a business. Mr. Percell added that he would not want a person who took a course on-line embalming his relative.

In response to a question from Senator Higdon, Mr. Percell said that as a board they review a minimum of 20 CEU programs throughout the country per month. Some funeral homes hire speakers to come to their funeral home to hold CEU classes that meet the requirements of the in person language.

### **Licensing HVAC Professionals**

Representative Lynn Bechler said HVAC companies are having trouble hiring qualified workers. People living near the state's borders are willing to come to Kentucky to work; however, regulations for out-of-state workers limit businesses ability to hire them. This bill proposes allowing people coming into Kentucky to take the same Masters and Journeyman tests as the Kentucky candidates, as long as they have the same experience. The bill does not issue a license, but does allow out-of-state workers to test. Controversy arose during the last session. All parties have come together to work out a solution for legislation for the upcoming session.

Ron Kramer, owner and principal of Prudential Heating and Air Conditioning Company in Louisville said he supports Representative Bechler's new legislation. The new bill better defines what routine service is, as well as a major repair. A Master HVAC license allows



a person to operate a business. The Journeyman license allows a person to repair equipment. Current law states that in order to hold a Masters license you are required to be a technician for two years. Operating a business and repairing equipment require two different skill sets and a journeyman HVAC technician would not have the knowledge required to operate a business.

Additionally, there is a change in the licensing requirement when there is a death of the owner of a business. A business is given time to get a Master license holder rather than closing the business. All industry associations are in support of this new bill.

#### **Hairdressers, Cosmetologists, and Barbers**

Senator Higdon told the members that his bill combines issues confronting the Board of Hairdressers and Cosmetology and the Board of Barbers but it does not combining the boards. One common item in the bill is fee structure. All boards and commissions are made up of state workers. Because of the pension crisis, the contributions are going to be raised. In order to generate money, the boards are going to have to raise licensing fees. Rather than coming to the legislature every time a board needs to raise a fee, putting a fee schedule in administrative regulation will allow a board to raise a fee as needed. Also, the boards are asking for individual accounts with the treasury to prevent the legislature from sweeping their accounts. The cosmetologists are asking for subpoena power which has been granted to only a few boards.

Sonja Minch, Administrator for the Kentucky Board of Barbering said the changes the barbers are asking for are housekeeping measures. During the last session a bill changed the term apprentice to probationary. This has caused confusion with new barbers who go to another state to work. The term probationary sounds like the barber is being disciplined. The board is asking to go back to the term apprentice, keeping all the measures, with one exception, for a probationary barber. Currently a probationary barber is required to take the barber exam within six months. The board is asking for an extension from six to nine months.

At this time, the board does not plan to raise any fees. The barbering industry is booming. In the past three years three new schools have opened. Two schools will be opening by the end of 2017, and another school plans to open by March of 2018. The board is currently testing monthly and issuing licenses within two days so people can begin working immediately.

In response to a question from Senator Schickel, Ms. Minch said the bill does remove fees from statute. However, any fee raised will have a cap set in administrative regulation.

In response to a question from Representative Thomas, Ms. Minch said the purpose of a wall

between barbers and cosmetologists in the same building is that the skill sets are different. Barbers are trained in precision cutting and straight razor shaves, cosmetology learns more about make-up and hair color. Ms. Minch stated that if hair color and chemical services were taken out of the equation she would be all for removing the wall requirement.

Julie Campbell, Administrator for the Kentucky Board of Hairdressers and Cosmetologist said her board is streamlining their chapter by collapsing Chapter 317B, regulating estheticians, and putting the necessary language in Chapter 317A. The board is also in the process of repealing more than 20 administrative regulations. The board has adjusted fees one time in the last 35 years, so currently hairdressers only pay \$20 to renew their license. Looking at fees in surrounding states, Kentucky is at the bottom both in licensing and testing. Today the barbering board charges \$200 for its exam, the hairdressers exam fee is \$75, capped by statute.

The proposed bill also removes restrictions for hairdressers and cosmetologist starting out in business. Removing the apprentice license, which requires taking an exam, six months of supervision and taking another exam, will allow new hairdressers and cosmetologist to become independent contractors and either start a salon or rent a booth. Currently, hairdressers and cosmetologists can only test in the Frankfort facility, with a quorum of the board. The exam is a proctored exam. The board is asking for an emergency clause that allows it to use a national testing model and to implement that model immediately. This allows the board to go to regional testing centers across the state, which makes it easier on the student. This also allows a license for license exchange between states.

In a response to a question from Senator Schickel, Ms. Campbell said some fees are excessively low. Fees have not been raised on schools for years, and fees were lowered in the aesthetics license. There is an issue with human trafficking and unlicensed activity therefore larger fines should be a deterrent for this activity.

In response to a question from Representative Koenig, Quincy Ward, board attorney, said the main reason for requesting subpoena power is that the board is facing enforcement issues and other boards that are in the compliance business and inspect establishment and enforce statutes have subpoena authority. The bill also gives the board the power to seek a preliminary injunction against unlicensed activity. With subpoena power the board could compel a business to allow inspection of licensing documents and other records used in that business.

There being no further business to come before the committee, the meeting was adjourned at 11:34 AM

## **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

### **Minutes of the 6th Meeting of the 2017 Interim**

November 29, 2017

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

The sixth meeting of the Interim Joint Committee on State Government was held on Wednesday, November 29, 2017, 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 and Representatives Jerry T. Miller, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, and Wil Schroder; Representatives Lynn Bechler, Kevin Bratcher, Tom Burch, Will Coursey, Jim DeCesare, Joseph Fischer, Derrick Graham, Dan Johnson, DJ Johnson, Mary Lou Marzian, Reginald Meeks, Phil Moffett, C. Wesley Morgan, Jason Nemes, Sannie Overly, Jason Petrie, Rick Rand, Jody Richards, Bart Rowland, Attica Scott, Tommy Turner, Ken Upchurch, and Jim Wayne.

Guests: Allison Ball, Noah Friend, and O. J. Oleka - Kentucky State Treasury; Joe Bilby, Kentucky Department of Agriculture; Mike Harmon and Sara Beth Gregory, office of the Auditor of Public Accounts.

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

#### **Approval of Minutes**

A motion to approve the minutes of the October 25 meeting was seconded and passed without objection.

#### **Introductory Comments**

Senator Bowen said that Secretary of State Allison Lundergan Grimes was invited to this meeting to discuss legislative priorities of her office but declined the invitation due to other commitments. He expressed disappointment that the meeting did not include testimony from her. The meeting folders include a copy of her November 22 response letter to the committee chairs in which she discussed the mission and activities of her office and of the State Board of Elections, plus legislative proposals for consideration in the 2018 Regular Session.

#### **State Treasury - Status Report and Legislative Priorities**

Guest speakers from the State Treasury were Allison Ball, State Treasurer; Noah Friend, General Counsel; and O. J. Oleka, Chief of Staff.

Treasurer Ball discussed activities at the Treasury and initiatives that she hopes will be accomplished in the coming year. She said her office was able to resolve IRS-related issues that

potentially could have cost the state about \$1 million. They worked with the Alabama state treasurer's office to prevent an occurrence of wire fraud involving both Kentucky and Alabama. As a watchdog on spending, she is committed to using the Treasury's budgeted funds in the best way. She cut the budget 4.5 percent when she assumed office and in 2017 cut it an additional 1 percent. For FY 2017-18, the Treasury so far has processed \$227 billion in payments and receipts for the Commonwealth, 10 million ACH (automatic clearing house) transactions, and 5,000 or more wire transfers to the federal government totaling \$37 billion. During last year's snowstorm when state offices were closed the Treasury remained open in order to process 50,000 checks to retired teachers. In connection with their watchdog role, there have been instances when the Treasury has stopped checks, some of which are involved in pending lawsuits.

Treasurer Ball said that transparency has been a major focus. She worked with the Finance and Administration Cabinet to launch the Commonwealth's transparency website ([transparency.ky.gov](http://transparency.ky.gov)). The state of Ohio spent over \$1 million to create a transparency website that is viewed as the gold standard. By using existing relationships, contracts, and resources Kentucky's website was launched without additional spending. STABLE Kentucky is a savings and investment program available to Kentuckians with disabilities. Kentucky is one of the first states to have this type program, and it was established without spending additional taxpayer dollars. It offers a tax-free savings plan for disability-related expenses. Account holders can save and invest without losing needs-based benefits, and family members and friends can also contribute to the accounts.

Treasurer Ball said the top priority for the 2018 legislative session is the Revised Uniform Unclaimed Property Act (RUUPA), which is an initiative to reform the Treasury's unclaimed property division. RUUPA is a uniform code that is being developed by stakeholders and experts nationwide. Last year the Treasury returned \$25 million in unclaimed property. The unclaimed property function has not had significant updates since the 1980s. Current law is unclear relating to unclaimed property in some respects. RUUPA includes ideas to save money and cut red tape to make it easier for businesses and individuals to make claims. Mr. Friend said that the RUUPA legislation will be very detailed. It is intended to clarify and update unclaimed property law. When the statute was written, bitcoin and online currency had not been anticipated. One example of proposed revisions is to no longer require businesses to send annual reports to the Treasury if they have nothing to report.

Improvements relating to 529 ABLE and

STABLE accounts at both the state and federal level is another major interest. There are efforts at the federal level that would allow traditional 529 education accounts to roll over to Kentucky STABLE accounts if a child becomes disabled and college is no longer possible.

Senator Schroder sponsored SB 179, enacted in the 2016 Regular Session relating to ABLE accounts. He thanked Treasurer Ball for her efforts relating to the ABLE and STABLE Kentucky programs. He said they encourage savings and are important to the disability community. He also appreciates her efforts to meet with other state officials and to inform the citizenry about the programs.

Representative Wayne expressed appreciation to Treasurer Ball and her staff. Responding to his questions, she said she employs about 30 people and has had no retirements within the past six months. Her employees seem to have a "wait and see" attitude regarding recent proposed pension changes, and she does not see a reason to be alarmed. When Senator Bowen pointed out that the invited speakers were asked to discuss their legislative agendas for 2018, Representative Wayne agreed to withhold his inquiries relating to pension reform. There were no further questions, and Senator Bowen thanked Treasurer Ball and her staff.

#### **Department of Agriculture - Status Report and Legislative Priorities**

Joe Bilby, General Counsel, represented the Department of Agriculture (KDA) on behalf of Commissioner Ryan Quarles, who had a previous commitment out of town. Mr. Bilby said the Commissioner sends his apology and also extends invitations to two meetings—the State Board of Agriculture meeting at the Frankfort campus on December 12 and the first meeting of the Industrial Hemp Advisory Board (created by 2017 Senate Bill 218) on December 13. The application window has closed for the 2018 hemp growing season, and the number of applications received has increased slightly. The Commissioner also advises that Russell Coleman, U. S. Attorney for the Western District of Kentucky, recently at a press conference praised federal and state law enforcement agencies for their role in preventing theft of credit card information at gas station skimmers. As a result of KDA gas pump inspections, eight or nine persons have either pled guilty or been convicted of credit card theft, with projected savings of thousands of dollars. The Commissioner urges everyone to notify KDA about any concerns regarding theft at gas pumps.

Commissioner Quarles returned recently from China, where he met with the U. S. Ambassador to China Terry Branstad, representatives of the Kentucky thoroughbred industry, and Chinese government officials. After

a year-long effort by him, the U. S. Department of Agriculture, and the thoroughbred industry, China has lifted the ban on importation of live horses from the United States, including quarterhorses and saddlebreds. This action has created economic opportunity for the Kentucky horse industry.

Mr. Bilby said KDA has three main legislative priorities for 2018. An executive reorganization order has just been finalized to update the organizational structure and office names, and KDA will propose a bill to codify the changes. KDA will also likely ask the General Assembly to consider other modernization efforts. Unlike most states, Kentucky does not have legislative authorization to issue Certificates of Free Sale, which are sometimes required for export of agricultural commodities. KDA believes it would be in the best interest of Kentucky industry to have that authorization clearly stated in statute. They may also propose revisions or updates to statutes relating to livestock safety and disease control and regulation of motor fuels.

The second main priority for 2018 relates to a transportation issue with significant impact on Kentucky agriculture. New federal regulations take effect in December 2017 relating to the electronic logging devices (ELDs) that are required for long distance truck operations. The devices track the number of hours that a vehicle/driver has been in service. The goal of the regulations is to ensure that companies and their employees are respecting hours-of-service limitations, as regulated by the federal Motor Carrier Safety Administration. Many agricultural producers in Kentucky cannot afford to install ELDs on their trucks. Agricultural producers are now exempt from the ELD requirement when carrying commodities and farm supplies distances up to 150 miles. The applicable Kentucky statute, which links to existing federal law, needs to be updated because it specifies 100 miles instead of 150. KDA has been working with Representative James Tipton to draft an expansion of the Kentucky statute. They are working with him also on a joint resolution asking Congress to expand the distance parameter to 200 miles, a change that would be helpful to agricultural producers in the state. When Senator Bowen asked why an exemption is needed for such a short distance, Mr. Bilby said that the federal regulations require hours of service restrictions and documentation for certain classes of vehicles.

KDA's third legislative priority is a resolution relating to the Kentucky Hunger Initiative launched by Commissioner Quarles in 2016. The resolution would ask state agencies to perform a self-assessment of their food waste practices. Forty percent of food in the country is thrown away, often after large scale events, including some that are sponsored by state agencies. The



self-assessment was Senator Rick Girdler's idea, and KDA hopes to work with him on drafting the resolution.

Representative DeCesare inquired about regulations relating to zip lines and conversion of agricultural structures into event venues. He said he understands that new laws or regulations have become more stringent. He has heard from constituents, and he is interested in helping farm owners open event type facilities without compromising safety. Mr. Bilby said they worked with Representative Suzanne Miles on agri-tourism legislation enacted in 2017 (HB 360) that excused landowners from complying with some of the more stringent provisions of the building and housing codes. KDA would welcome the opportunity to discuss whether further changes may be needed. Representative DeCesare said that meeting required upgrades for certain size facilities can be difficult for landowners, such as requiring sprinklers when there is no available water source. He would like to see everyone involved discuss possible alternative solutions.

Regarding zip lines, Mr. Bilby said that in 2016 the General Assembly enacted a law requiring the Department of Agriculture to promulgate administrative regulations relating to aerial recreational devices and zip lines. In response to concerns raised at three open public meetings that were well attended in the summer of 2017, KDA made significant changes to the initial draft regulation. They have received quite a few comments since the regulation was promulgated and considered by the Administrative Regulation Review Subcommittee in early November. However, they would welcome any additional comments.

Representative Wayne asked whether KDA has met with representatives of amusement parks and is planning to develop legislation that would apply specifically to them. He said he has heard from representatives of the industry—the largest being Kentucky Kingdom—and they are concerned that some of the regulations and statutes relating to county fairs should not apply to amusement parks. Mr. Bilby said they have heard from representatives of Kentucky Kingdom about their desire to revisit the statutes to determine whether there should be different standards for county fairs and permanent structures like Kentucky Kingdom; however, they have not submitted any recommended changes at this time. He said the Department would welcome the opportunity to meet with Representative Wayne and industry representatives. Representative Wayne said he appreciates Mr. Bilby's openness and will contact Ed Hart, CEO of Kentucky Kingdom.

Representative Wayne commended KDA for its work on the PACE (Purchase of Agricultural Conservation Easements) program. He said

the program has languished under previous agriculture commissioners but has already been monitored twice since Commissioner Quarles assumed office.

Representative Scott said she is very interested in the Hunger Initiative. She asked what type questions might be on the self-assessment for state agencies and what subsequent action might be taken. Mr. Bilby said the actual questions have not been determined, and they have not yet met with Senator Girdler. However, they would not want the questions to create a huge new paperwork assignment for state agencies. He believes they will probably want to develop a list of 6-10 comments and questions for the assessment and would welcome any suggestions from Representative Scott. Hopefully, state agencies would make an effort to benefit local shelters with the extra food. Due to the nature of the business, the greatest waste often happens after events at large hotels like the Galt House. State agencies are sometimes involved in planning dinners for those events. There is opportunity for state government to consider best practices and set an example for the private sector. Senator Bowen agreed that it is a timely and important topic. He encouraged the involvement and participation of the committee members.

Representative Bechler, who represents House District 4, expressed thanks for Commissioner Quarles' recent visit to that western Kentucky district.

There were no further questions, and Senator Bowen thanked Mr. Bilby for speaking to the Committee.

#### **Auditor of Public Accounts - Status Report and Legislative Priorities**

Guest speakers were Mike Harmon, Auditor of Public Accounts, and Sara Beth Gregory, chief of staff.

Mr. Harmon discussed past enacted legislation in which his office was involved—Senate Bill 63, "Sexual Assault Forensic Evidence (SAFE) Act of 2016"; Senate Bill 168 (2016 RS), which clarified the Auditor's role in audits of city governments; and House Bill 189 (2017 RS), a transparency bill relating to area development districts. Going forward into 2018, he said the Auditor's Office wants to ensure that its budget is sufficient to continue their work and be able to address additional concerns and questions that may be brought to their attention. His office tries to serve as a resource for county officials and has been looking at ways to help county governments save money.

Auditor Harmon said he will be recommending legislation to close a loophole in certain statutes. Cities that file a uniform financial report (UFR) are allowed to receive state road and other funds even if they have not been

audited. Without an audit, it is unclear whether data in a UFR is accurate. The Kentucky League of Cities agrees with the Auditor's recommendation to tighten up the governing statute. Some of the cities currently being examined have not been audited since 2009, and plans are underway to do those audits.

Auditor Harmon said his office generally performs about 600 audits annually, including the confidential annual financial report (CAFR) and the statewide single audit of Kentucky. They audit county and circuit clerks, sheriffs, fiscal courts, PVAs and others. His office recently released an audit of the Jackson County fiscal court for both FY 2015 and FY 2016 that resulted in 40 findings in the first year and three additional the second year. That audit also resulted in a referral to law enforcement relating to theft by the former Jackson County treasurer. They also perform special exams. After examination of the University of Louisville and the University of Louisville foundation, they subsequently proceeded with the audit opened by the previous state auditor. There were a number of findings, including a major lack of transparency and questionable use and management of endowment funds. Auditor Harmon said the audit was done at minimal cost to the taxpayer, and he believes it provided a good roadmap for the university going forward.

The Auditor's Office also proceeded with a financial statement audit of the Louisville Arena Authority at the request of the Capital Projects and Bond Oversight Committee. It found that 75 percent of the revenue for the Arena Authority came from taxpayers and only 25 percent from arena revenue. It also found that the Arena Authority received 3 percent of suite licensing fees, while 97 percent went to the University of Louisville athletic association. Auditor Harmon said he is pleased that after the audit the Arena Authority's bond rating rose from junk to investment grade, which will help save millions of dollars for the Authority and the taxpayers. The Auditor's Office also did a special exam of the Kentucky Horse Park, at the request of Senator Damon Thayer and the secretaries of the Tourism Cabinet and the Finance and Administration Cabinet.

Auditor Harmon said that some of their current work is focusing on the Fire Commission, the Administrative Office of the Courts, and two city audits. At the beginning of next year they will be assisting the Commercial Mobile Radio Service Emergency Telecommunications Board (CMRS) to complete its FY 2014-2017 audits. He said his office has no shortage of requests. Concluding his presentation, he stated that last year the Auditor's Office received the highest possible rating from its peers in the National Association of State Auditors, Comptrollers and



Treasurers.

Senator Bowen inquired about potential penalties that might result from audit findings other than loss of a job. Auditor Harmon said indictments and guilty pleas have resulted in some instances, but they are not an enforcement agency. The lion's share of their work is to help counties—and to certain extent cities—to “stay within the guardrails.”

Representative Nemes asked about follow-up to the University of Louisville audit and whether the new university administration had cooperated with the Auditor's Office. Auditor Harmon said there have been discussions, and he believes the university administrators have made their best effort to use the initial judgment filing as a roadmap to move forward. Ms. Gregory said their office receives a 60-day corrective action plan as a follow-up on special examinations but, without doing additional work, they cannot assure that the university has complied with all recommendations and potential corrective actions. Representative Nemes said he would hope that the Auditor's Office might be able to follow up to determine whether proper steps have been taken by the new administration.

Representative Nemes inquired about the audit of the Administrative Office of the Courts. Ms. Gregory said it is ongoing. As with any audit, if they see evidence of “red flags” or areas of concern that need further review, they will broaden the audit's scope as needed.

Representative Moffett said he is concerned about the fiscal health of some counties and cities. He asked whether the Auditor's Office does any financial tracking that might predict potential bankruptcy of those entities. Auditor Harmon said that financial statement audits can sometimes indicate concerns. Counties are required to pay for their audits, and his office tries to work with counties that are struggling to make their payments. Ms. Gregory said that audits by their nature are retroactive, and it is not necessarily in their bailiwick to make projections. They work closely with the Department for Local Government (DLG), the regulatory oversight body for counties. DLG staff work with the county treasurers and fiscal courts on budgetary problems. When an audit reveals serious financial concerns, they are brought to the attention of DLG so that they can be addressed on an ongoing basis. In response to another question from Representative Moffett, Auditor Harmon discussed the budgetary and fee structure of the Auditor's Office.

Representative Scott inquired about the Auditor's involvement with the rape kit issue. Auditor Harmon said that when he served in the General Assembly he supported SJR 20 (2015 RS), which directed the Auditor of Public Accounts to report on the number of untested

sexual assault examination kits in the possession of Kentucky law enforcement and prosecutorial agencies. He said that during his campaign for Auditor, his predecessor Adam Edelen asked him to continue work on that issue if he won the election, and he said he would. Along with legislators and stakeholders, the Auditor's Office has continued to lend its support. Ms. Gregory said that Senator Harper Angel and Senator Whitney Westerfield deserve credit also for clearing the way on pertinent legislation.

Representative Wayne said that the audit of the Louisville Arena Authority, which oversees the financial process of the KFC Yum! Center, revealed that the Yum! Center does not follow the state procurement code and is not subject to the Executive Branch Ethics Code. A private accounting firm is auditing both the Yum! Center and the Kentucky Exposition Center, and The Yum! Center owes a considerable amount of money to the Exposition Center. He asked whether the Auditor's Office plans to follow up with the legislature to remedy problems that were exposed. Ms. Gregory said the items mentioned were incorporated in the original budget bill that approved creation of the Louisville Arena Authority. For some reason, that budget language was not included in subsequent budget bills and is also not codified in statute. It is a “murky” legal question whether noncodified budget language continues to be binding on an entity in the future. The Auditor's Office has pointed out that the transparency measures originally put in place may have been allowed to lapse. They felt it was important to bring this to the attention of policymakers because it could happen again in the future. Whether those provisions have legal effect would have to be determined by the courts. She said it would be the legislature's prerogative to address this, but she does not know the appropriate window of time, in view of the refinancing that is currently underway. Representative Wayne asked whether the Auditor's Office would be able to assist in developing appropriate corrective legislation. Ms. Gregory said she does not have all the answers but would be happy to engage in the conversation and contribute to the dialogue. Representative Wayne said that the increase in the bond rating was only a fraction and, according to the Wall Street report, was based on the enthusiasm of Cardinal fans. He commended Auditor Harmon for doing a fine job in the audit examination.

There were no more questions, and Senator Bowen thanked the speakers. He said the state's constitutional officers do important work and that receiving their testimony is valuable to the Committee.

#### **Other Business**

Senator Bowen recognized three members

of the committee who had requested the opportunity for public comment.

Senator Schroder said he has had a good working relationship and good legislative policy discussions with Secretary of State Grimes in the past, but he is disappointed that no one from her office is present. He said he has a question about the legislative agenda mentioned in her November 22 letter to the committee chairs. He feels that early voting and “boots to business” are appropriate issues for proposed legislation by a secretary of state, but he does not understand how legalization of medical marijuana is a relevant issue for Secretary Grimes' office. He is not aware of any constitutional or statutory authority that would include that issue within her purview. He said it is unfortunate that no one from her office is present and that he would welcome any answers from the Secretary's office. Senator Bowen said he is also concerned that the Secretary is not present to discuss her legislative agenda.

Representative Graham said he wants the meeting record to reflect that Secretary Grimes sent a letter explaining that she could not attend today's meeting because of a scheduling conflict and that the letter also included information about her legislative agenda for 2018.

Representative Nemes expressed thanks that Secretary Grimes sent a letter. He said he hopes she can be invited to a meeting in January so that she can answer questions about her legislative agenda. When he asked whether Attorney General Beshear had been invited to today's meeting, Senator Bowen said that he was not.

There being no further business, the meeting was adjourned at 2:30 p.m.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 6th Meeting of the 2017 Interim**

November 7, 2017

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

The 6th meeting of the Interim Joint Committee on Transportation was held on Tuesday, November 7, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Marie Rader, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's October 3, 2017 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Marie Rader, Co-Chair; Senators Joe Bowen, C.B. Embry Jr., Jimmy Higdon, Paul Hornback, Gerald A. Neal, Dorsey Ridley, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Lynn Bechler, Tim Couch, Ken Fleming, Chris Fugate, Al Gentry, David Hale, Chris Harris, Toby Herald,

Dennis Horlander, Kenny Imes, Dan Johnson, James Kay, Donna Mayfield, Suzanne Miles, Robby Mills, Tim Moore, Rick Rand, Steve Riggs, Sal Santoro, John Sims Jr, Jim Stewart III, and Walker Thomas.

Guests: Colonel Antoinette Gant, U.S. Army Corps of Engineers, Louisville District, Sharon Bond, Chief of Planning, Louisville District, Sara Konish, Strategic Initiatives Specialist; John Moore, Executive Director, Division of Planning, KYTC, Lynn Soporowski, Transportation Engineering Branch Manager, Multi-Modal Programs Branch, KYTC, Greg Pritchett, Port Director, Henderson Riverport Authority; Robbie Englert, Senior Vice President of Operations, Crounse Corporation, Justin Dickens, Manager, Risk and Administration, Crounse Corporation.

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

#### **Presentation on Kentucky Locks and Dams**

Colonel Antoinette Gant, U.S. Army Corps of Engineers, Louisville District, gave a presentation on Kentucky's locks and dams. She stated the Louisville District is one of seven districts within the Great Lakes and Ohio River Division commanded by Brigadier R. Mark Toy with headquarters in Cincinnati, Ohio. The Huntington, Nashville and Louisville Districts all provide planning, design, and construction management support to communities and to the Commonwealth for water resources projects under the Civil Works program. The Memphis District which is a part of the Mississippi Valley Division, also works within the Commonwealth of Kentucky in southwestern Kentucky on the Mississippi River. Established in 1886, the Louisville district has a total workforce of approximately 1,250 people in the five-state area of Kentucky, Indiana, Illinois, Ohio and Michigan. In addition to the headquarters in Louisville, the Louisville District also has 60 field offices. The over 95 percent civilian workforce is made up of professional engineers, architects, planners, biologists and other specialist and support staff. The Louisville District is one of the Corps of Engineers most diverse districts that include military construction, environmental, and civil works missions. The Louisville District's military mission is in support of the 12 Army installations, five Air Force installations, several other Department of Defense facilities, and a program of project, design, and construction management in support of the Army and Air Force Reserve military construction program for the entire United States and its territories. The environmental mission is focused on cleanup of Department of Defense site contamination to protect public health and safety, and the environment. Lastly the Civil Works Mission includes flood risk management, navigation,

regulatory activities, water supply, water quality, hydropower, environmental conservation, and restoration, recreation and emergency response. The Louisville District's civil works boundary includes 20 multipurpose flood reduction and recreation reservoirs and ten locks and dams (two along the Green River and eight along the Ohio River.) From this general navigation profile of the mainstream of the Ohio River from Pennsylvania to Southern Kentucky, nine of the 20 locks and dams (including locks and dams 52 and 53 which will be replaced by Olmsted) are within the Louisville footprint. Among this network however many of the aging locks and dams located on the upper Ohio are at risk of failure after decades of underinvestment, potentially causing significant adverse impacts to the national economy.

Specific to Louisville, the average age of the navigation infrastructure along the river is approximately 46 years old, nearing their 50 year design life. There are many commodities that are moved throughout the basin via the locks and dams. As far as the economic impact of this, an average of over 22 billion dollars' worth of commodities are shipped through the highest traffic area of the Ohio River. Barges on the Ohio River can move a ton of commodities 550 miles on one gallon of fuel, as compared to 400 miles on railroads, and 150 miles on trucks, an efficiency which results in reduced fuel emissions. Waterway transportation also alleviates highway congestion. A 15 barge tow, common on the Ohio River, has the same capacity as over 800 trucks, and over 200 railcars. This reduction in transportation cost translates to lower end-user prices for goods transported on the waterway, including decreased energy costs from coal.

Colonel Gant stated that the top five Ohio River Commodities by tonnage are coal, grains, aggregates, chemicals, and petroleum. She added that when most discuss the Ohio River especially in the navigation industry, there is one stretch of the river that is always mentioned, locks and dams 52 and 53. This strategic reach of the Ohio River provides a connection between the Mississippi River, the Tennessee River, and the Cumberland River. More tonnage passes this point than any other place in America's inland navigation system. And while it's the busiest, it is also one of the oldest. Completed in 1928 and 1929, the antiquated design and age of these structures make it impossible to meet current traffic demands without delays. The existing structures have deteriorated structurally as was shown in pictures, and are overstressed during normal operating conditions. In just FY 2017 alone, the Corps of Engineers has invested \$13.2M to repair, operate and maintain locks and dam 52 (normally \$2.5M for high lift facilities). Constructors installed anchors to

assist with safe dam operations, a contractor is on sight 24 hours a day, seven days a week to assist lock and dam 52 employees, and make repairs when conditions allow. Currently the third rock installation contract is underway. The rock dikes will allow for the fixing of four holes in the navigable pass section, and there have been multiple miscellaneous contracts for hydraulic repair. During a recent 14 day closure, an \$8M impact was identified by the ship carriers but it goes further. Total river closures in 2017 have had an estimated impact of over \$35M to the nation.

However, the Olmsted project is near completion. Once Olmsted is operational, locks and dams 52 and 53 will be demolished. The Olmsted project is ahead of schedule and under budget. All precast concrete on the project is complete. Remaining critical low water season activities include tainter gates bay number five unwatering (side seals and sill installation), completion of left boat abutment cast-in-place concrete, removal of Illinois side of left boat abutment cofferdam, and set/tremie of navigable pass-12A. Key pieces of the puzzle that allowed such progress have been efficient funding, advantageous river conditions which have allowed the work to expand beyond the contractual low water season (15 Jun – 30 Nov) and partnerships with the navigation industry, which contributes through a fuel tax. Colonel Gant shared a few photos which described the complexity of this \$3 billion project.

Colonel Gant stated while there is excitement surrounding the completion of Olmsted, they still recognize that there are issues throughout the basin, outside of navigation. With that, along with other sister river districts and the division, they are seeking to address such issues with a basin-wide approach. The recent partnership between the Ohio River Basin Association and the Ohio River are steps in the right direction in assisting the Corps and others in efforts to identify strategies and priority actions which can be addressed using a interrelated voice. Colonel Gant stated they just concluded their first Ohio River Basin Tour in Pittsburgh to replicate the Great Lake Restoration Initiative for the Ohio River. This initiative will continue with Huntington and Louisville Districts over the next two years. She added they are excited to announce The Ohio River Basin Climate Change Adaptation/Mitigation Strategies Pilot Study sponsored by the Institute for Water Resources, featuring climate modeling for anticipated precipitation and temperature changes through 2099 as well as adaptation strategies for infrastructure and ecosystems that may be impacted by these forecasted changes. Efforts such as this help to establish a baseline of current conditions that will advance all future planning



activities and provides a common operating picture basin wide. Colonel Gant concluded with the mission at the Louisville District, which is to deliver solutions and manage resources supporting regional and national requirements utilizing the best engineering practices and strategic partnerships to reduce disaster risk, strengthen the economy, and support national security.

In response to a question asked by Senator Bowen concerning the other locks and dams on rivers other than the Ohio River, Colonel Gant stated that along the Green River, there are two for which the Corps has primary responsibility. Sharon Bond, Chief of Planning, Louisville District, stated there has been a disposition that some of those locks and dams are no longer in operation. She added that locks and dams three through six on the Green River and one on the Barren River are no longer being used for navigation. A disposition study was done and there was legislation passed by Congress that directed the disposition of those properties in 2016. She added for the Kentucky River, they have transferred locks and dams five through fourteen to the Kentucky River Authority. Another disposition study is being done at locks and dams one through four on the Kentucky River and it is yet to be determined who those would be turned over to in the future.

In response to a question asked by Representative Fleming concerning safety, specifically levee safety, Colonel Gant stated the district has a dam safety and levee section and it is their responsibility to inspect those levies and dams in the district and report back with critical issues. She added the criticality rating will determine the types of funding that is used for the repairs. She added at this point, she is unaware of any criticality which would result in complete failure.

In response to an additional question asked by Representative Fleming concerning the district's relationship with Homeland Security, Colonel Gant stated the district has a responsibility to be able to communicate with Homeland Security where there are issues. She added the Emergency Operations Center is in contact with Homeland Security regularly sharing information.

In response to a question asked by Representative Miles, Sara Konish, Strategic Initiatives Specialist, stated The Water Authority has leased the Rochester Dam property for what she believes is a twenty year lease. The authority has been in contact with the district about changes and improvements they would like to make, and they have worked closely with them to accommodate any changes they have requested.

#### **Presentation on Kentucky Riverports**

John Moore, Executive Director, Division of Planning, KYTC, Lynn Soporowski,

Transportation Engineering Branch Manager, Multi-Modal Programs Branch, KYTC, and Greg Pritchett, Port Director, Henderson Riverport Authority, gave a presentation on the Kentucky Riverports. Ms. Soporowski stated that Kentucky currently has eight operating public riverports, four that are developing, and two that are in question. She stated that in FY 2016 there was a return on investment of 422 percent for the project list. In FY 2017 the unfunded amount significantly increased, yet there was a still an excellent return on investment of 212 percent for the project list. She added in FY 2018, fewer projects were able to be funded and still had a 225 percent return on investment on those projects.

Ms. Soporowski provided charts that showed how much of the \$500,000 a year that has gone to the public riverports for maintenance of access and dredging has been allocated to activities such as pavement projects, rail projects, cranes, conveyors, scales, dredging, barge access, dock improvements, and security from FY 2013 to FY 2018. She added because of the way the funds were distributed as a line item in the transportation budget, some of those funds were lost. There was a project in FY 2013 that was canceled late in the process because the railroad decided not to participate. Because of that, \$50,000 was lost to the riverports and went back to the General Fund. The Riverport Financial Assistance Trust Fund was created in FY 2010 and Ms. Soporowski stated they propose that this is where these funds need to go. They allow for the funds that are canceled to again be used by the riverports, not lost. It will also streamline the auditing process and allow for longer term planning and larger construction projects. The Riverport Financial Assistance Trust Fund will be administered by KYTC and may receive appropriations, federal funds, contributions, gifts, and donations. The purpose of the trust fund is to improve riverport facilities and infrastructure, to capture the economic and trade potential, but shall not include routine operations, and maintenance. Also, according to notwithstanding KRS 45.229, moneys remaining in the fund shall not lapse but shall carry forward and interest earned shall accrue to the fund. There is also a minimum of a 20 percent match, but can be set at a 50 percent match, depending on the funds that are available. The Riverport Marketing Assistance Trust Fund is to be administered by the Cabinet for Economic Development. This fund may also receive appropriations, federal funds, contributions, gifts and donations. The purpose of this fund is to promote and market Kentucky's riverport to industrial, businesses and commercial prospects, to attract economic development. Money shall also be carried forward into the succeeding fiscal year. Grants under the section of KRS 1584.80-

140 shall not exceed \$15,000 per project or \$30,000 per port per year and the project shall be completed within one year of the funding, with the applicant having at least a 50 percent match.

Ms. Soporowski stated that Kentucky is working with Fortune 500 companies to try to bring them into the state, however, in the Kentucky Constitution (section 164) it states that no county, city, town, taxing district, or other municipality shall be permitted to make any contract for a term exceeding twenty years. Before granting such franchise or privilege the municipality shall first, after due advertisement, receive bids therefore publicly, and award the same to the highest and best bidder. This section does not apply to a trunk railway. This portion of the Kentucky Constitution has not been revised since September 28, 1891. Ms. Soporowski stated the problem with a franchise limit of 20 years is that businesses want and need long term agreements to make their private investment lucrative.

Ms. Soporowski gave an overview of some of the projects that KYTC has dealt with over the past few years including the FY 2016 and FY 2017 Eddyville-Lyon County Riverport and Industrial Development Authority with expanded truck queuing and improved grain pit access and technology. She also gave an overview of the FY 2016 Greenup-Boyd County Riverport Authority with included 4 railroad crossings and 176 cross-tie replacements. The FY 2017 Henderson County Riverport Authority also had a dock crane restoration project. In FY 2014, 2016, and 2017, the Hickman-Fulton County Riverport Authority funded dredging for slack water harbor. Hickman, and Fulton County also replaced a 40 year old crane that increased capacity by 150 percent, as well as replaced conveyors from 1974 that also increased capacity by 150 percent. The Louisville Jefferson County Riverport Authority, from FY 2013 through FY 2018, completed rail rehabilitation and replaced 1,770 cross ties with new plates, spikes, anchors, and ballast. The rail rehabilitation was particularly important due to the approximate 225,000 tons of throughput of material such as petroleum coke, clay, coal, and coils to name a few. The Owensboro Riverport Authority in FY 2017 performed a project for security on an inner loop road which provides single access points for external traffic, secures the entrance (gate) 24 hours a day, seven days a week, and 365 days a year. This project also included a detour to the guard building and safe parking for truckers. Ms. Soporowski stated other projects that Owensboro has done has included a 40,000 square foot tolling and storage facility, and an 100,000 bushel storage and conveyor upgrade for Bunge North America. With those two projects, Solvay and Bunge, Kentucky invested



approximately \$150,000 to \$160,000, however Solvay and Bunge invested over \$25 million. In FY 2017 The Paducah-McCracken County Riverport Authority completed dock dredging, as well as obtaining new truck scales, and conveyor refurbishment.

In conclusion, Ms. Soporowski stated Kentucky's public riverports need allotments to be put in The Riverport Financial Assistance Trust Fund per KRS 1747.210, for limits to be eliminated on contracts per the Kentucky Constitution Section 164, and an increase in funding to improve Kentucky's economy.

In response to a request by Representative Riggs, Mr. Pritchett stated that other communities that do not have riverports still benefit from them due to the raw materials that are disbursed all throughout the Commonwealth that are brought in by using those riverports. Ms. Soporowski also added that the environmental footprint is reduced due to the usage of riverports as well.

Senator Bowen acknowledged the manager of the Owensboro Riverport Brian Wright who was in attendance and thanked him for his dedication and hard work. He also reiterated Representative Riggs point as to the many benefits of riverports across all communities in the Commonwealth.

Co-Chair Harris stated he believes as we look forward in the Transportation budget, that there will continue to be money being put into developing all modes of transportation, riverports included because all of the modes of transportation are integrated and critical to the success of Kentucky businesses.

In response to a question by Senator Higdon concerning the need for a constitutional amendment to change the 20 year franchise law, Ms. Soporowski stated that the need for a constitutional amendment is what attorneys have told her would need to happen in order to solve this issue, however she stated she is open to other ways to expand the time limit on the franchise law.

#### **Presentation on the Kentucky Waterways Industry and Local Impact**

Robbie Englert, Senior Vice President of Operations, Crounse Corporation, and Justin Dickens, Manager, Risk and Administration, Crounse Corporation gave a presentation on the Kentucky Waterways industry and its local impact. Mr. Englert stated the Crounse Corporation is a Paducah, Kentucky based barge line that was founded by George Crounse in 1948. The Crounse Corporation has approximately 300 employees. Mr. Crounse chose Paducah as the headquarters for the Crounse Corporation due to the close proximity to the Ohio, Tennessee, Cumberland, and Mississippi Rivers. The Crounse Corporation operates approximately 34 tow boats and a fleet of about 1,150 barges. Mr.

Englert stated there are seven or eight employees operating a boat and they work on the boat 21 days at a time and then they are off for 21 days. These jobs are career path oriented leading to possible positions of becoming an engineer, a wheelhouse/pilothouse or captain on a boat which requires coast guard credentials to operate the boats. Being a Kentucky based corporation, Mr. Englert stated they move a lot of coal, some from riverports that were mentioned earlier. He also added that the corporation moves about 30 million tons of material a year, most of which is coal and aggregate. Together with other service providers and barge lines and terminal people, congressional district one has approximately 7,000 jobs in the river transport industry. He added Kentucky is fifth highest in the nation for the number of employees in the maritime industry.

Mr. Englert stated one barge can hold 16 rail cars and the biggest gondola cars are 100 ton cars. He added that fifteen, 150 car unit trains will only fill up nine or ten barges and they move 15 of them at a time. To further elaborate the amount of materials being moved, Mr. Englert stated 1,000 tractor trailers on the road would fill up one barge. Mr. Englert stated a newly implemented regulation stated the vessels must be inspected which makes this mode of transportation even more safe. Mr. Englert stated there is over 20,000 miles of navigable waterways in the United States therefore, water transportation has an important part to play in the well-being of the country.

In response to a question asked by Co-Chair Harris concerning a possible increase in barge traffic from the Panama Canal, Mr. Englert predicted that there will be an increase in barge traffic, however, there will need to be an inter-modal place where rail, truck, and barges can all distribute containers, and that key place has not yet been located.

Senator Smith elaborated on the concern of the river capacity due to the shallowness of certain waterways. He also questioned who is responsible for maintaining the various locks and dams. Mr. Englert stated that in the river transportation industry they pay 29 cents per gallon on every gallon of fuel that is used for propulsion. He added they are the only stakeholders that pay into the waterway trust fund, and then the federal government matches those funds which are then used for projects that Colonel Gant and the Louisville District oversees.

With no further questions to come before the Committee, Chair Rader adjourned the meeting at 2:07 P.M.

## **INTERIM JOINT COMMITTEE ON AGRICULTURE**

### **Minutes of the 6th Meeting of the 2017 Interim**

November 8, 2017

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

The 6th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, November 8, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators C.B. Embry Jr., Stan Humphries, Dennis Parrett, Dorsey Ridley, Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield; Representatives Matt Castlen, Myron Dossett, Derrick Graham, David Hale, Mark Hart, Angie Hatton, James Kay, Kim King, Suzanne Miles, Sannie Overly, Jason Petrie, Phillip Pratt, Rick Rand, Brandon Reed, Steven Rudy, Dean Schamore, Wilson Stone, Walker Thomas, James Tipton, and Tommy Turner.

Guests: Warren Beeler, Governor's Office of Agricultural Policy and Marielle Manning, Public Relations, Governor's Office of Agricultural Policy; Mark Haney, Kentucky Farm Bureau, Eddie Melton, 1<sup>st</sup> Vice President, Kentucky Farm Bureau, Commissioner Ryan Quarles, Kentucky Department of Agriculture; Tamara Sandberg, Kentucky Association of Food Banks; Representative Melinda Gibbons Prunty; Chuck Courtney, Green River Loggers Council, and Bob Bauer, Kentucky Forest Industries Association.

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

The October 6, 2017 minutes were approved, without objection, upon motion made by Representative Reed and seconded by Representative Thomas.

#### **Legislative Issues for 2018 Regular Session**

Warren Beeler, Executive Director, Governor's Office of Agricultural Policy stated that in 1998 there were 46,000 tobacco farmers in Kentucky and now there are only 4,600. He said that of the \$87,000,000 General Assembly Budget, half went to Agriculture and the other half went to Healthcare and Childhood Development.

Mr. Beeler stated that from 1990 to 2015, agriculture had seen major changes. For instance, he said that the poultry market and production had increased from about 1 percent to approximately 33 percent. Mr. Beeler stated that in ten years, poultry could be the second biggest industry in agriculture.

Mr. Beeler said that the total KADF Project

and Program Investments was approximately \$542,513,602. He said that the direct investment into the Kentucky Agricultural Finance Corporation was \$45,250,000 and the investments had been receiving a monthly return of approximately \$500,000. He stated the KAFB had made over 800 loans totaling \$108,000,000. Of the 800 loans, there were only five bad loans. Mr. Beeler said that based on an evaluation made by the University of Kentucky, over seventy-nine percent of lenders would not have funded a project without the participation of the KAFB.

Mr. Beeler said that one of the greatest projects ever funded by KAFB was the Hopkinsville Elevator Company (HEC). He noted that in 2001, the HEC project was approved for \$6.5 million of state and county funds. In 2017, the co-op returned \$39.5 million to 4,000 stockholders. He said that Chaney's Dairy Barn was the best example of a farm utilizing KAFB and KAFB programs. The Chaney's purchased robotic milkers, received grants for storefront construction and building expansion, acquired a cost-share grant for a compost barn, and through an On-Farm Energy program grant they purchased and installed energy efficient fans and lights. Another project investment that has a business success rate of eighty-six percent is the Kentucky Center for Agriculture and Rural Development. The Center provides technical assistance, business planning, and has assisted in the establishment of 104 farmer-owned LLC's, 17 non-profit organizations, and 25 cooperatives.

Mr. Beeler said that state recipients of KAFB are the Kentucky Dairy Development Council, Kentucky Beef Network LLC, Kentucky Horticulture Council, Kentucky Proud, the University of Kentucky (Research Foundation), and the Kentucky Agricultural Finance Corporation.

In response to Senator Hornback, Mr. Beeler stated that funds from tobacco companies, based on cigarette sales, flow in to the general fund and are then distributed – half is allocated to agriculture and half to healthcare and childhood development. Mr. Beeler stated that there was approximately \$4 million in unused funds that had been set aside for water and sewer debt payments. Of that \$4 million, 35 percent of the funds, approximately \$1.5 million, are allocated to county funds and 65 percent of the funds, approximately \$2.5 million, are allocated to the KAFB as state funds. Mr. Beeler stated that the additional \$4 million in unused funds for water and sewer debt payments has not yet been distributed by the Governor's office, so counties and the KAFB have not yet received the additional funding for projects.

Mark Haney, Kentucky Farm Bureau, stated that no other state has been able to provide sustainability for farm families like Kentucky.

He said that Kentucky agriculture sectors had reached record cash receipt levels at a time when the nation suffered through a recession. He stated that farmers are now beginning to see lower net farm income because of the commodities market and price swings. He explained that farmers are repeatedly asked to do more with less and farmers are continuing to meet that challenge with the help of the Governor's Office of Agricultural Policy and its programs.

Mr. Haney said that the Resolutions Committee of Kentucky Farm Bureau would be recommending and reaffirming prior legislative issues. He pointed out that investments always need to be made, even in the hardest of times, in order to get back a significant return as it relates to the budget of the Commonwealth of Kentucky. He said that funding for soil erosion and water cost share programs and conservation are important issues for agriculture. Mr. Haney stated that it was also important to fund the Kentucky Department of Agriculture. He said that if tax reform is taken up for discussion during the 2018 Regular Session, Kentucky Farm Bureau stands ready to work with the General on this issue. Kentucky Farm Bureau supports the long-standing issue of maintaining a tax exempt status for agriculture. Kentucky Farm Bureau also supports maintaining the current provisions of HB 44, which limits the amount of property tax revenue to 4 percent plus new growth. Mr. Haney said the rural, secondary, and county road fund is important. He said that rural communications, broadband, and high speed internet, are imperative for rural farmers to be able to advertise and conduct business. Wildlife population management continues to be an issue in farming communities.

Commissioner of Agriculture, Ryan Quarles, stated that the United States recently resumed trade with China for U.S. horses. The trade agreement will allow Kentucky to once again benefit from trade with China. Commissioner Quarles said that discussions were also held regarding the export opportunity for U.S. beef; particularly Kentucky beef, and Kentucky hardwood. He said that Kentucky was still looking at signing similar protocols concerning feed and feed additives, as well as soybean exports.

Commissioner Quarles stated that there is a lot more momentum with alternative crops. There are approximately a dozen kenaf growers and 200 industrial hemp growers. He said that some Kentucky-grown kenaf and hemp was sent to Tesla for experimentation in automotive parts. He said that the amount of Kentucky corn going into Kentucky bourbon had increased by 65 percent. Commissioner Quarles stated that the Kentucky Department of Agriculture's inspections are current across the state.

Kentucky Proud continues to grow with over 6,000 members. He said that very soon Kentucky Proud beef products will be sold in Kroger grocery stores.

Commissioner Quarles noted that the KDA would be instituting another budget cut. The KDA will continue to do with less and remain efficient and transparent. He said that KDA would be implementing a reorganization process to help streamline the Department. He said that the KDA is looking to file a modernization bill which will reflect the reorganization process, and also a cleanup bill that will either fix or eliminate old language concerning the KDA's Consumer and Environmental Protection division and the Office of the State Veterinarian. Commissioner Quarles pointed out that the KDA would like to see a law passed allowing the KDA to issue certificates of free sale. Another issue the KDA would like to see addressed related to the electronic logging devices on semi-trucks. The federal law allows 150 air radius miles but Kentucky only recognizes 100 air radius miles. He said that KDA would support a Grape and Wine Council bill that would reflect modern operations within the wine communities across the state. He said that KDA would also support a resolution allowing the KDA to take a deeper look at food service and food waste through self-assessments within the state agencies, and would support a rural jobs bill to provide a streamline tax and credit incentives for rural counties. Commissioner Quarles also mentioned that the veterinarian school partnership agreements with Auburn and Tuskegee universities need to be preserved.

Commissioner Quarles stated that there are still 1 in 6 adults and 1 in 5 children suffering from food insecurity. The food immunity bill has helped grocery stores in donating food without fear of a lawsuit. Some corporate entities have stepped up by donating 156 chest freezers, with one to be placed in each county food pantry.

In response to Senator Humphries, Commissioner Quarles stated that he had talked with federal officials concerning the proposed nicotine reduction regulation in dark-fired tobacco and is waiting for an official statement.

Tamara Sandberg, Executive Director, Kentucky Association of Food Banks, explained that the Association is made up of the seven Regional Feeding America affiliated food banks that serve all of Kentucky's 120 counties in partnership with 800 local food pantries. She stated that the Farms to Food Banks program fed one in seven Kentuckians last year; 63 million meals which included 21 million pounds of produce. The goal of the Farms to Food Banks program is to increase access to healthy food, to pay fair prices that help farmers recoup losses, and to reduce the amount of wasted food.



Ms. Sandberg stated that their 2017 budget consisted of public-private partnership donations, including a state appropriation of \$600,000 to the Farms to Food Banks Trust Fund. Other donations are from individuals; tax refund checkoff and in-kind contribution for distribution of \$361,000. The impact on hungry Kentuckians consisted of 3,610,000 million pounds of Kentucky grown produce, which was enough fruits and vegetables for 6 million meals. She said the produce was distributed by the seven regional food banks who work with 491 food pantries and 66 mobile pantries. Ms. Sandberg stated that all 120 counties received produce through this program.

Ms. Sandberg stated that in 2017 the Kentucky Association of Food Banks (KAFB) worked with 390 Kentucky producers in 66 counties. Each producer was paid an average of \$1,700, however the larger scale operations received more money. As an example, she said that one farm family who provided the most produce received \$32,000 and nine other farm families received \$10,000 or more. Ms. Sandberg stated that the KAFB had expanded beyond produce to eggs and had been able to distribute 100 dozen Kentucky produced eggs. She said it was important to note that KAFB could get more food per pound for \$1.00 with produce. There was a problem with meeting the egg producers need in order to cover their bottom line. She said that purchasing eggs had been a pilot project and KAFB is working to expand that program. KAFB would love to expand to other agriculture products such as poultry and beef.

Ms. Sandberg encouraged legislators to continue the \$600,000 funding to the KAFB in order to help struggling farmers and to feed the hungry.

In response to Senator Webb, Ms. Sandberg said that the KAFB had spent money on shipping produce from central Kentucky to the northeast part of Kentucky. She said that county extension offices had agreed to work with KAFB to get the information out to the farmers who have produce to sell. It would help to save money on shipping.

In response to Representative Miles, Ms. Sandberg stated that they are continually looking for ways to increase funding. One initiative called the Commonwealth of Kentucky Bowl through the Secretary of State's Office partnered with the Area Development District to raise food that would all stay within Kentucky. Those results should be available soon. The Kentucky Attorney General partnered with the Kentucky Bar Association and raised approximately \$50,000 worth of food. Local donations often stay local, but is also distributed across the state to needy food banks.

In response to Representative Stone, Ms. Sandberg stated that the Allen County Produce

Auction is fortunate in that it has a contract with a truck driver who schedules pick-up and delivery. It should be noted that the KAFB pays for those transportation costs. The Food Bank does have a large fleet of refrigerated trucks but they are scheduled down to the minute. The Food Bank has had to use other sources of transportation for picking up produce.

In closing, Ms. Sandberg stated that in January, KAFB would have an individual report for each county as to the farmers and food banks that are in each legislative district.

Representative Melinda Gibbons Prunty, Chuck Courtney, President, Green River Loggers Council and Bob Bauer, Kentucky Forest Industries Association discussed issues facing the logging industry. Mr. Bauer stated that logging is the backbone of the wood industry. He said that logging has a \$9 billion direct economic impact and \$14 billion in total economic contribution. He said that there are over 28,000 direct jobs in the forest industry and over 60,000 jobs in total. He said there were approximately 7,000 jobs in the logging industry. Mr. Bauer said that Kentucky was the third largest hardwood lumber producer in the nation at 746 million board feet each year. He explained that under the Forest Conservation Act, all logging jobs require a KY Master Logger on site. He said that logging inspections are performed by the KY Division of Forestry and all jobs require using best management practices to protect water quality. Mr. Bauer stated that getting the products to the market can be difficult when using county roads. The logging industry is not opposed to regulations to protect the roads but would like to be treated fairly. Another issue facing the logging industry is the future workforce. He said that logging is a tough and dangerous job. The industry is trying to find ways to offer training to younger people. He noted that technology and mechanized logging is becoming more prevalent. Mr. Bauer explained that workers' compensation for loggers is a problem. The rates force companies to insure fewer employees. He stated that the logging industry is changing and is a key to the economy of Kentucky. Mr. Bauer stated that the logging industry recommends continued funding for county roads and the Kentucky Division of Forestry.

Mr. Courtney agreed that one of the biggest issues for logging is getting the timber to the market using the county road system. Farmers call all the time to have their land logged, but the industry cannot give them fair market value due to problems using county roads.

In response to Senator Parrett, Mr. Bauer said that there is still a good supply of white oak for the next ten to twenty years. If the areas are not harvested correctly, then the supply of white oak will diminish.

Senator Webb said it was important that better management and education concerning the harvest of white oak be a continued area of focus. She requested information on the management of white oak; now and in the future.

The meeting was adjourned at 11:35 p.m.

## **INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

### **Minutes of the 5th Meeting of the 2017 Interim**

November 9, 2017

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

The 5th meeting of the Interim Joint Committee on Banking and Insurance was held on Thursday, November 9, 2017, at 10:00 AM, at the Brown Hotel, Louisville. Representative Bart Rowland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Rick Girdler, Morgan McGarvey, and John Schickel; Representatives Jim Gooch Jr., Dennis Keene, Adam Koenig, Michael Meredith, Steve Riggs, Wilson Stone, and Addia Wuchner.

Guests: Peggy Porter, President and Chief Executive Officer (CEO), Chip Adkins, Chairman, and Tara Purvis, President-elect, Independent Insurance Agents of Kentucky; Joe Leahy, Chair-elect, Independent Insurance Agents and Brokers of America; Julie Mix McPeak, Commissioner, Tennessee Department of Commerce and Insurance and President-elect, National Association of Insurance Commissioners; Nancy Atkins, Commissioner, and Patrick O'Connor, Deputy Commissioner for Policy, Kentucky Department of Insurance; Representative Steve Riggs, President, National Conference of Insurance Legislators; Greg Kosse, General Counsel, Kentucky Farm Bureau Mutual Insurance Company; Tim Lynch, Director, Government Affairs, National Insurance Crime Bureau; and Owen Caster, Kentucky Medical Claims Examiner, The Progressive Insurance Group of Insurance Companies.

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

#### **Approval of Minutes**

A quorum not being present, the minutes of the October 24, 2017, meeting were not considered.

#### **Welcome Remarks**

Chip Adkins, Chairman; Peggy Porter, President and CEO; and Tara Purvis, President-elect, Independent Insurance Agents of Kentucky (IIAK), and Joe Leahy, Chair-elect, Independent Insurance Agents and Brokers of America welcomed members to the IIAK's 121<sup>st</sup> Annual Convention. Mr. Adkins explained the mission and purpose of the IIAK. Chairman Rowland



and Chairman Buford presented Ms. Porter citations of appreciation recognizing her service to the industry and pending retirement.

#### **Discussion of the State of Kentucky's Insurance Industry**

Commissioner Nancy Adkins, Kentucky Department of Insurance (KDI) explained recent changes made at the KDI including departmental reorganization and improved collaboration between agency divisions. Deputy Commissioner for Policy Patrick O'Connor updated members on the status of health insurance in Kentucky. He provided an overview of carrier participation and service areas, plan network types, rates, open enrollment, KDI outreach and challenges the state faces moving forward. Deputy Commissioner O'Connor spoke on other health and life insurance issues including short-term medical insurance, rate increases in the group health insurance market, air ambulance and emergency room billing issues, Pharmacy Benefit Manager issues, and long-term care insurance. Mr. O'Connor gave a property and casualty update including the workers' compensation market and Insurtech—the expansion of digital platforms in the insurance application and claims process. Mr. O'Connor discussed the progress of KDI's Red Tape Review, and activities of the Financial Standards Department and the Consumer Protection Division. From 2014 through 2016 KDI's Fraud Division received 5,267 referrals, of which 3,676 were automobile Personal Injury Protection (PIP) related accounting for almost 70 percent of the division's total referrals. Approximately 62 percent of those referrals originated in Jefferson County. Over the last three years the Fraud Division has recovered \$3.8 million.

Responding to Chairman Rowland's question Commissioner Atkins said Insurtech entities are reviewed by the Financial Standards Division.

In response to Senator Girdler's question Deputy Commissioner O'Connor said the 2014-2016 data does not reflect an increase in PIP claims specifically due to Florida's law changes. Commissioner Atkins explained that the agency's new fraud reporting system should more adequately document fraud claims.

#### **Discussion of Upcoming Priorities for the National Association of Insurance Commissioners**

Commissioner Julie Mix McPeak, Tennessee Department of Commerce and Insurance, and President-elect of National Association of Insurance Commissioners (NAIC) spoke on recent revisions to model laws that will impact states. The NAIC recently adopted an insurance data security model that establishes standards for data security for the investigation of a cyber event and for notifying state insurance commissioners

of any cybersecurity matters. Revisions to the Annuity Suitability Model allows the review of transactions and annuity products to consider if enhancements might be necessary given the changing standards under the Department of Labor. Annuity Disclosure Model revisions will take into account and inform consumers of innovative marketplace products. And changes to the Best Practices Model will address senior-specific designations in the sale of life insurance and annuities.

Ms. McPeak said the KDI's presentation addressed some of the issues being considered by the NAIC nationally. Areas of interest include shifts in technology, changing consumer demands, and an expanding global market. Some of the problems facing the industry include life insurers grappling with long term low interest rates, more severe weather events impacting property insurers, a looming retirement and savings crisis and a concerning trend of higher claims costs for auto insurers. The health care market needs certainty in funding and regulations for the market to reach stability. Carriers continue to leave the market sometimes leaving only one area carrier. Ms. McPeak reviewed the NAIC's suggestions to stabilize the market. The NAIC has urged congress to take measures to address shortfalls.

Regarding air ambulance billing concerns, Ms. McPeak said the NAIC and other organizations have directed their advocacy efforts at the federal level due to the preemption clause of the Federal Airline Deregulation Act that prohibits states from regulating the price, route, or service of an air carrier.

Ms. McPeak explained that while insurance is an important mechanism to allow communities to rebuild during a disaster recovery event, the NAIC advocates for resilience planning that should integrate with other community planning efforts such as land use and hazard mitigations plans. The NAIC is working with lawmakers to improve building codes to minimize potential damage before disaster occurs.

Regarding financial regulatory reform, Ms. McPeak said since the passage of the Dodd-Frank Act, changes are needed to better respect the role and strength of the states in regulating insurance. Eliminating or limiting the authority of the Federal Insurance Office, providing state insurance regulators a vote on the Federal Stability Oversight Council, significant reform to the designation process of the Financial Stability Oversight Council if not outright elimination, and prevention of regulation duplication of insurance entities by banking regulators are some of the suggestions of the NAIC.

Responding to Chairman Rowland's questions, Ms. McPeak said Tennessee allows off-exchange product offerings but not in

counties with only one carrier on-exchange. Tennessee also offers a statewide association health plan through the Tennessee Farm Bureau. They would offer in-network benefits outside of the state of Tennessee. She said Tennessee has had substantial year-over-year premium rate increases that Kentucky did not experience. When the Affordable Care Act became effective, Tennessee had extremely high claims costs and extremely low premium rates. They hoped 2017 would level off, however, the lack of Cost-Sharing Reduction funding resulted in an additional 18 to 20 percent rate increase.

Senator Buford said organized fraud rings are taking advantage of Kentucky's no-fault vulnerability. This is also leading to a significant increase in prescription pain killers available to sell. Responding to Senator Buford's question Ms. McPeak said Tennessee has responded to insurance fraud through tort reform and an opioid task force has been created. The task force is considering prescription limitation to make opioids less accessible. Ms. McPeak noted that Kentucky's fraud investigation division is unparalleled in Tennessee and they will likely turn to Kentucky for possible solutions to fraudulent claims.

#### **Discussion of Upcoming Priorities for the National Conference of Insurance Legislators (NCOIL)**

Representative Steve Riggs, President of NCOIL, provided background information on the organization and its functions including writing insurance and financial services model laws and encouraging dialog and cooperation with state executive branches. The main priority is to maintain state jurisdiction over insurance by working with Congress to ensure state-based regulation of insurance, enacting consumer protection model laws, and ensuring solvency and education of state legislators on insurance policy making. Representative Riggs discussed various legislation recently presented including model acts and resolutions on topics such as minor identity theft protection and air ambulance regulation. He gave an overview of models and resolutions to be addressed at NCOIL's upcoming 2017 Annual Meeting. Representative Riggs said the organization serves to educate legislators through various means including a partnership with the Institutes Griffith Insurance Education Foundation.

#### **Discussion of Personal Injury Protection Reform and Fraud Prevention**

Greg Kosse, General Counsel, Kentucky Farm Bureau Mutual Insurance Company said PIP insurance costs have been increasing at an unacceptable rate and current law prevents meaningful oversight of costs within the PIP system. A presumption of reasonableness prevents insurers from questioning amounts

billed and occasionally services provided. The current system is ripe for abuse and fraud noting that a significant driver of PIP coverage costs is abuse by unscrupulous providers, sometimes to the level of medical fraud. Mr. Kosse said recent years have seen the no-fault insurance cottage industry flock to Kentucky with fraud being most prevalent in urban areas and in eastern Kentucky. Mr. Kosse recommended reforms that would curb costs such as a fee schedule similar to workers' compensation. He stated that PIP reform benefits all customers.

Tim Lynch, Director, Government Affairs, National Insurance Crime Bureau (NICB) said the bureau is a national not-for-profit organization supported by property and casualty insurance companies created to work with members and law enforcement to investigate organized criminal activities involving insurance fraud and vehicle theft. He said the pervasive abuse of the current PIP system are undeniable. Organized criminal elements in Kentucky are abusing and benefiting from Kentucky's no-fault insurance environment. Pain doctors, chiropractors, and attorneys convert PIP abuses into cash necessary to acquire high volumes of prescription narcotics. PIP abuse has led to other crimes such as cargo theft, gang activity, and even homicide. The NICB along with the Department of Insurance can be a resource for specific data to help identify existing and emerging fraud trends. Nationally, Louisville has ranked in or near the top ten cities in organized crime involving questionable medical claims, organized group activity, and suspicious vehicle claims. Information obtained during fraud investigations describes the migration of organized criminals from south Florida and New York to Kentucky. Kentucky, and Louisville specifically, has become fertile ground for organized criminals who have hijacked Kentucky's PIP system and led to other organized activities.

Owen Caster, Kentucky Medical Claims Manager, the Progressive Group of Insurance Companies said that while PIP coverage has served the state well since its inception, in recent times it has become a source of frequent abuse straying from its original intent of providing prompt payment for reasonable medical care and lost wages, and to reduce litigation for those injured in automobile accidents. Mr. Caster said currently medical providers' charges are not limited. Establishing a fee schedule would help eliminate exorbitant medical charges. Mr. Caster provided examples of fees charged for an automobile accident versus what would be paid under the Kentucky Workers' Comp fee schedule. Other areas for possible reform include reduction of "red tape" that automobile insurance companies face as they investigate questionable and potentially fraudulent PIP

claims. He also suggested clarifying existing law and consumer education noting that PIP benefits are not primary insurance coverage over other private health insurance coverage.

Chairman Rowland questioned whether Kentucky's penalties for insurance fraud were stringent enough compared to other states. Mr. Lynch said he would research surrounding states and provide that information.

Representative Wuchner suggested the development of a shop-for-services program that incentivizes consumers and encouraging consumers to access primary care coverage over emergency room visits for secondary care. She suggested the development of a formulary.

Responding to Chairman Rowland, Mr. Lynch said Florida's response to claims fraud was House Bill 119, enacted in 2012 that requires people injured in automobile accidents to seek medical attention within 14 days in order to implement PIP coverage, it banned treatment for acupuncture and massage therapy, it tightened licensing requirements for chiropractors and physicians and strengthened penalties for doctors and others who violated provisions, it capped some attorney fees and allowed insurers more time to investigate claims. He said Florida's changes were marginally effective and they are still addressing issues to reduce fraud.

Senator Girdler said Kentucky's rates are tremendously higher than surrounding states. Mr. Caster said it is somewhat more expensive to purchase insurance in Kentucky but some states are catching up. PIP coverage is an additional coverage that neighboring states do not have. He said Kentucky's laws make it easy and attractive for outside entities to do business here.

Responding to Representative Riggs' Mr. Kosse said while lawsuits have been filed against overcharging by medical providers, challenges to the presumption of reasonableness have been upheld. Representative Riggs said he would like to see more legal challenges towards overcharging by medical providers. Mr. Kosse suggested that legal challenges can become expensive so companies opt not to.

Representative Gooch said the current PIP legislation is flawed and statutory protections from exorbitant medical fees should be enacted. He has attempted to make changes on numerous occasions but has been unsuccessful.

Senator Girdler said insurance companies would be subjected to negative publicity if they took the matter of overcharging to court.

There being no further business to come before the committee, the meeting was adjourned

at 12:30 PM.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

### **Minutes of the 6th Meeting of the 2017 Interim**

November 20, 2017

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

The 6th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Monday, November 20, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Ralph Alvarado, Rick Girdler, Dennis Parrett, Wil Schroder, Brandon Smith, and Stephen West; Representatives Tim Couch, Regina Huff, Brian Linder, Donna Mayfield, Suzanne Miles, Jason Nemes, Ruth Ann Palumbo, Phillip Pratt, Jody Richards, Sal Santoro, Arnold Simpson, Jim Stewart III, James Tipton, Ken Upchurch, Susan Westrom, and Jill York.

Guests: Steve Parker, Commissioner, Todd Bloch, Deputy Commissioner, Craig Farmer, Engineering Branch Manager, Kentucky Department of Aviation; Adira Johnson, Commissioner, Elizabeth Caywood, Executive Advisor, Department for Community Based Services; Hahns Herklotz, General Counsel, Catherine York, Deputy General Counsel, Cabinet for Health and Family Services

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

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

Senator Alvarado made a motion, seconded by Senator Schroder, to approve the minutes of the October 26, 2017 meeting. The motion carried by voice vote.

#### **Presentation on Transportation Aviation**

Steve Parker, Commissioner, Todd Bloch, Deputy Commissioner and Craig Farmer, Engineering Branch Manager, Kentucky Department of Aviation gave a brief overview of the impact of General Fund Appropriation on general aviation airports.

Commissioner Parker reviewed several slides regarding the state of public and private airports around the state.

In response to a question from Chairman Rudy, Commissioner Parker explained that the \$10 million each year of the biennium being requested is for hard construction only. No money is being spent on fuel systems, instrument approaches, hangars, or furniture for terminal buildings.

In response to a question from Senator Schroder, Commissioner Parker explained that



all revenues received by airports stays local and no revenues come back to the state.

#### **Presentation on Kinship Care**

Adria Johnson, Commissioner presented a power point to the committee regarding the Kinship Care program and the most recent supreme court decision on D.O. vs Glisson. She explained the ruling as well as a brief overview of the Kinship Care program as a whole.

In response to a question from Senator Parrett, Commissioner Johnson stated that there is a huge benefit to placing a child with a family member as opposed to foster care. Studies have shown it is less traumatic and a child will do better in a setting where there is familiarity.

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

## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

### **Minutes of the 6th Meeting of the 2017 Interim**

November 29, 2017

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

The sixth meeting of the Interim Joint Committee on Local Government was held on Wednesday, November 29, 2017, at 10:00 AM, in Room 171 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 Rob Rothenburger, Co-Chair; Senators Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, and Wil Schroder; Representatives Danny Bentley, Ken Fleming, Kelly Flood, Toby Herald, DJ Johnson, Kim King, Adam Koenig, Stan Lee, Brian Linder, Michael Meredith, Jerry T. Miller, Phil Moffett, Steve Riggs, Arnold Simpson, and John Sims Jr.

Guests: Jefferson County Circuit Court Clerk David Nicholson; Kenton County Circuit Clerk John Middleton; Commonwealth's Attorney Rob Sanders; Henderson County Attorney Steve Gold; Leslie County Clerk James Lewis; Floyd County Clerk Chris Waugh; Bill May, Kentucky County Clerks Association; Larue County Judge/Executive Tommy Turner; Vince Lang, Kentucky County Judge/Executive Association; Christian County Jailer Brad Boyd; Renee Craddock, Kentucky Jailers Association; Scott County Magistrate David Livingston; Boone County PVA Cindy Arlinghaus Martin; Mack Bushart, PVA's Association; Grant County Sheriff Chuck Dills; Jerry Wagner, Kentucky Sheriff's Association; Shellie Hampton and Roger Rectenwald, Kentucky Association of Counties; Mayor Jim Barnes, City of Richmond; Mayor Teresa Rochetti-Cantrell, City of Mayfield; Corey Bond and Tom Sanders, City of Elizabethtown; Jonathan Steiner, Michele Hill, Bert May, and

Bryanna Carroll, Kentucky League of Cities; Tony Hatton and Daniel Cleveland, Energy and Environment Cabinet, Peter Goodmann, Jory Becker, Greg Goode, and Claude Carothers, Division of Water; Angela Evans and Michael Kurtsinger, Kentucky Fire Commission; Dustin Miller, State Farm Insurance, and Judy Piazza, Finance and Administrative Cabinet.

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

#### **Approval of Minutes**

Upon the motion of Representative Simpson, seconded by Representative Sims, the minutes of the October 25, 2017 meeting were approved.

#### **Kentucky Association of Counties' Legislative Platform for 2017 Session of the General Assembly**

Jefferson County Circuit Court Clerk David Nicholson, President of the Kentucky Association of Counties (KACo), discussed the role of KACo in coordinating policy for its constituents and provided an overview of some primary agenda items it plans to address in the 2018 Regular Session of the General Assembly which included amendments to the County Employees Retirement System and related systems, tax reform efforts, and unfunded mandates. KACo is willing to engage in discussions of the agenda issues, and is grateful to the General Assembly members for their efforts.

Representatives of each of KACo's affiliate groups presented their particular priorities for session.

Scott County Magistrate David Livingston and board member, representing the Kentucky Magistrates and Commissioners Association, indicated that jail funding is a priority. The housing in jails of drug offenders and their needs puts financial pressure on counties. The second priority is multi-modal transportation infrastructure funding for city, county, and rural roads and airports. Counties are responsible for maintaining 40,000 miles of roads and 5,000 bridges. The economy depends on roads. The Association has partnered with the Kentucky Infrastructure Coalition which supports long-term, sustainable funding for all modes of transportation. The motor fuels fee is the fairest fee to provide funding for the roads.

Kenton County Circuit Court Clerk John Middleton and President of the Kentucky Association of Circuit Court Clerks told the committee that salary levels of deputy clerks and attorneys, court designated workers, pretrial release were substantially below equivalent jobs in the executive branch. In addition, the association had the following concerns or preferences with the current draft of the pension legislation:

The addition of the 3 percent cost for health insurance and retirement in that it reduces take

home pay;

The exclusion of sick time from retirement service time calculations;

Allow Tier 3 persons to remain in the plan without changes; and

Allow retired clerks and deputy clerks to return to service and maintain their present retirement. Presently when they do so, it is with a substantial pay cut and no participation in a retirement fund.

The circuit clerks noted their collective monitoring of the implementation of the Real ID Act and how drivers licensing legislation affects their ability to support their charity, the Trust for Life.

Kenton County Commonwealth's Attorney Rob Sanders and Legislative Chair of the Kentucky Commonwealth's Attorneys Association, noted the functions of the Commonwealth's Attorneys and indicated that further cuts to their budget will result in a reduction of personnel or massive reduction in salaries which would itself result in a loss of personnel. The 17% tentatively proposed budget reduction would effectively shut the offices down on March 1<sup>st</sup>. Maintaining an experienced staff promotes efficiency and can positively affect jail costs and other costs when considering incarcerations while persons await the completion of their trials.

Henderson County Attorney Steve Gold and President of the Kentucky County Attorneys Association, reiterated the budget issue as expressed by the Commonwealth's Attorney's Association. He noted the roles county attorneys play in county government and in policy-making when the opportunity presents itself.

Mr. Bill May, Executive Director of the Kentucky County Clerks Association, introduced Leslie County Clerk James Lewis and Chair of the Kentucky County Clerks Association's Election Committee. Mr. Lewis noted the following proposals for statutory change:

KRS 132.017, relating to recall elections ballot printing timeframes;

KRS 117.035, relating to allowing County Board of Elections to meet only when needed;

KRS 117.343, relating to increasing actual voter reimbursements to the clerks;

KRS 117.075 and 117.085 relating to absentee voter application efficiency; and

KRS 116.055, relating to closing a new voter registration loophole that allows a voter to cancel his or her registration and sign up as a new voter under another party affiliation.

Larue County Judge/Executive Tommy Turner and Legislative Chair of the Kentucky County Judge/Executive Association noted his association's preference for maintaining the inviolable contract and the separation of the County Employees Retirement System (CERS) from other state run retirement



systems. Any financial obligations resulting from pension reform should be allowed to be implemented by the counties over time to help with budgeting. Additionally, transportation infrastructure needs are critical. Over the last 20 years, county costs have increased as much as 300% for certain items, especially materials while the commensurate revenue has only increased 20 percent. The group advocates for sufficient funds for maintaining infrastructure. In addition, jail funding will always be a priority with the association. The last item is tax reform. The group asks that any elimination of a tax be replaced with a revenue source of similar growth potential. The association favors local optional sales taxes, legislation addressing the offset of local occupational license taxes for counties over 30,000 in population, returning a higher percentage of coal and mineral funding to counties found primarily in the East and West coal fields, and allowing Tennessee Valley Authority "in lieu of" revenue be distributed to allow economic development for local governments.

Christian County Jailer Brad Boyd and President of the Kentucky Jailers Association, told the committee that the bed allotment has decreased 22 percent in the past ten years from around \$14 million to \$11 million. The fund helps jails with covering the cost to house inmates. Regarding the per diem, jails are paid \$29.50 per inmate and \$1.91 a day for medical expenses. It has been a decade since the last time it has been raised and it is time to begin the conversation about raising the per diem. There is an overpopulation in jails due to minor offenses—many dealing with drugs and many who are repeat offenders. Programs designed to reduce recidivism cost money and fiscal courts cannot pay for them alone. The state must help. Many inmates in the jail system have a future, but that future cannot be met without funding. Kentucky jailers want to be more than landlords; they want to help. The jailers ask for an increase in the per diem rate to continue the good work, expand the programs, and help inmates successfully reenter society.

Boone County Property Valuation Administrator (PVA) Cindy Arlinghaus Martin and Chair of the Kentucky PVA Association's Budget Committee, and Mr. Mack Bushart, Executive Director of the Kentucky PVA Association, both addressed the committee. Ms. Martin told the committee that the General Assembly directly funds PVA offices in the budget and when there is a reduction in budget, that reduction directly affects staffing. Cities and counties do serve as funding sources, but at present 51 percent of the moneys given to the PVAs from the cities and counties goes back to the state to plug the hole that has been created.

Other entities, such as school districts and special districts that use PVA assessment data do not pay anything to the PVA, and the budget subsidizes those entities in that regard. PVAs generate revenue at an 11 to 1 ratio on the investment to the state. Adding in the total revenues generated by PVA assessment (including cities, counties, schools and special districts) that figure rises to 51 to 1.

Mr. Bushart noted that since 2014 to 2017, the assessments the PVAs conduct have increased the valuation of real property in Kentucky \$22 billion. This has come from reassessments and new growth. It translates to \$11 million to the state and \$51 million to local governments, schools, and special districts. Adding a 2.5 percent to the state property tax rate would allow taxes to pay for taxes and keep the PVA offices funded.

Grant County Sheriff Chuck Dills and board member of the Kentucky Sheriffs Association, told the committee that the office of the sheriff was a fee office. The sheriffs have no control over the income brought into the office. Sheriffs' main responsibilities include tax collection, court security, auto inspections, security of justice centers, service of process, and prisoner transport. The state provides reimbursement for these statutorily-required duties, but the sheriffs perform these functions almost at a loss based on the money received. The primary issue the sheriffs wish to address is dealing with rehiring of retired peace officers. Retired peace officers are already trained, and having to send them back through training is expensive and takes a long time.

Senator Bowen commented that he recognizes the dire need for pension reform. There needs to be change, and without change, there can be no reform. Budget needs must be addressed, but there has to be pension reform first.

Representative Riggs commented that the act of voting in Kentucky is the bedrock of democracy. The voting turnout needs to improve in Kentucky. Six o'clock a.m. to six o'clock p.m. is not long enough.

In response to a question from Representative Riggs, Mr. Lewis said the County Clerks Association would be glad to put together a task force to come up with ideas for improving voter turnout.

Regarding the CERS being separate from the KERS, Senator McDaniel commented that KRS 78.852, dealing with the inviolable contract of the Commonwealth, should apply to employers.

In response to a question from Senator McDaniel, Mr. Vince Lang, Executive Director of the Kentucky County Judge/Executive Association, that he did not know how that statute would be interpreted, but that he believed

the responsibility rests upon the counties.

In response to a question from Representative Fleming, Mr. Nicholson replied that KACo should be in a position by January 1<sup>st</sup> to offer suggestions for tax reform. Representative Fleming encouraged KACo to submit their concerns to the General Assembly.

In response to a question from Representative Miller, Mr. Boyd said the Jailers Association would rather have the daily per diem increase for prisoners rather than taking prisoners out of jails.

### **Kentucky League of Cities' Legislative Platform for 2017 Session of the General Assembly**

Mr. Jonathan Steiner, Executive Director of the Kentucky League of Cities (KLC), Mayor Jim Barnes, City of Richmond and KLC President, and Mayor Teresa Rochetti-Cantrell, City of Mayfield and KLC First Vice-President, addressed the committee on the KLC 2018 legislative agenda.

Mr. Steiner made note of how the 2018 legislative agenda was formed. Cities need more flexible revenue sources, and want more control over local pensions.

Mayor Barnes said that local government is the most efficient and is held accountable by its citizens.

Separation of the County Employees Retirement System (CERS) from the other retirement systems is the top priority. Employees are there to serve the citizens, but it takes money to keep the employees in service. Fifty percent of Richmond's budget goes to hazardous duty pay for retired personnel. Separating CERS will allow cities to manage their self-funded pension funds and allowing the local governments to select board members will insulate the board from politics and provide consistency.

The road fund formula is another priority. County roads are vitally important and are arteries into the cities. City road maintenance is more than the actual blacktop. The road must be milled and curbs and gutters must be maintained. Milling is just as expensive as the blacktop. KLC urges being allowed to keep 35 percent of the increase in revenues when road fund revenues exceed \$828 million.

Unfunded liabilities are not fair. An example of unfunded liabilities would be newspaper publication requirements. The General Assembly is encouraged to look at reducing unfunded mandates for cities.

Lastly, amid cities' residents' increased demands for services, cities want to be able to expand the permission to levy the restaurant tax to all cities which besides being able to bring in more revenue is an issue of fairness. A restaurant tax in Richmond would bring in an additional \$2.5 million a year that could be spent on capital

improvements.

Mayor Rochetti-Cantrell noted additional KLC priorities:

KLC has diverse proposals for increasing economic development opportunities.

KLC wishes to see fire and police supplemental pay codified into law, and to have the additional costs to cities from that supplement be reimbursed from the fund to the cities.

KLC advocates for changes in workers compensation law as it pertains to employees on temporary total disability (TTD). KLC wants changes to the law that ensures when someone on TTD returns to work, on modified duty for instance, has those wages factored into his or her workers compensation benefits. KLC also seeks to address the Kentucky Supreme Court ruling that invalidated the termination of workers compensation benefits at the Medicare eligibility age.

Current law requires cities to publish notices in newspapers for actions like ordinances and budgets, notices of public hearings and audits. That requirement costs the taxpayers money for a medium that is no longer the first form of communication for most people in Kentucky. KLC advocates for a bill to no longer require newspaper publication, and to use other methods of notice.

KLC seeks to address the usage of police body cameras. It seeks to clarify when a video should be released and who should be able to obtain a copy.

KLC also seeks to amend the state's alcohol regulatory license fees law to allow all cities the right to impose one.

KLC's agenda also includes either eliminating the office of constable, or having the ability to restrict the constables' use of police powers within city limits.

Senator Bowen noted the balance and interaction of state taxes versus local taxes.

Senator Schroder thanked the mayors for mentioning unfunded mandates as it related to newspapers. He encouraged them to talk to members of the General Assembly.

#### **Division of Water's Report on 2017 HJR 56 relating to Package Sewer Treatment Plants**

Mr. Anthony Hatton, Deputy Commissioner of the Department for Environmental Protection, and Mr. Peter Goodmann, Director of the Division of Water, reported pursuant to the mandate found in 2017 HJR 56 where the Division was directed to study and provide recommendations for legislative and other solutions to the issue of failing or at-risk of failing package sewer treatment plants.

Deputy Commissioner Hatton told the committee that there were privately owned package sewer treatment plants that for a variety

of issues that affect their sustainability. In many instances they are older than their design life and there is insufficient capital to maintain them. Many of the collection systems that bring inflow to the plant have problems, too. The costs to maintain the systems have increased over time, while revenue streams have stayed the same or may have decreased. Some systems are not sustainable in the long term because of financial, administrative, and technical challenges.

Deputy Commissioner Hatton noted the convention of stakeholders as was required in the resolution and the methods they used to satisfy the resolution mandates.

Mr. Goodmann told the committee that there were 180 small, privately owned package sewer treatment plants, excluding business and school operations, and expanded on financial risks, technical indicator risks, and abandonment likelihood risk indicators. Identifying these risk factors allowed the Division to rank these plants in terms of being at-risk of failure.

The following are the Division's legislative recommendations:

Provide the cabinet certain authorities over financial issues related to management of the plant, such as ensuring funding for proper operations and maintenance, and facility contingency funds for failure, or catastrophic failure;

Provide funding to facilitate regionalization, consolidation, replacement of a system, or continued operation by a third party;

Provide cabinet authority to have court appoint a receiver, custodian, or fiduciary to assume management and operation of a system that presents a threat to continuity of service, public health, or a threat to the environment;

Provide cabinet with the authority to require in permitting structural analyses be conducted at designated times.

The following are actions the Cabinet is preparing to take:

Use the report to educate officials about the locations and risk factors that jeopardize public health, continuity of service, and environment;

Continue to regularly inspect small systems and prioritize the enforcement of violations;

Explore the development of a pool of potential receivers, custodians fiduciaries, and experienced operators to deal with failed or failing facilities;

Identify non-financial incentives to facilitate regionalization or consolidation or management of the small systems;

Possibly develop a contingency plan for addressing environmental emergencies resulting from small systems' failure.

Senator Bowen commented that package sewer treatment plants is a very important health and safety issue. The aforementioned report will

be made available to members via email.

In response to a question from Representative Rothenburger, Mr. Goodmann said local governments are being educated regarding the planning and zoning process to control package sewer treatment plants.

Representative Riggs commented that he was concerned by the recommendations to the legislature that involve state funding. The funding should come from the local governments, not the state.

Senator McDaniel commented that the most successful societies have trash removal, clean drinking water, and waste removal.

#### **Consideration of Referred Kentucky Administrative Regulation**

The committee considered referred Administrative Regulation 739 KAR 2:050, promulgated by the Kentucky Fire Commission, which relates to volunteer fire department aid. Ms. Angela Evans, Legal Counsel for the Kentucky Fire Commission, explained the regulation.

Senator Bowen stated that a written report of the review would be submitted to the LRC.

There being no further business, the meeting was adjourned at 12:15 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

November 14, 2017

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

The Government Contract Review Committee met on Tuesday, November 14, 2017, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julie Raque Adams; Representatives Chris Fugate, Dennis Horlander, and Diane St. Onge.

Guests: Joan Gates, Adam Caswell, Blaine Gilmore, Jill Hunter, Earl Gresham, Deck Decker, Naomi Emmons, and Mary Vosevich.

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

A motion was made by Representative Fugate to approve Minutes of the October 2017, meeting of the committee. Representative Lee seconded the motion, which passed without objection.

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

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

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

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

A motion was made by Representative Lee to consider as reviewed the Film Tax Incentive List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

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

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

EASTERN KENTUCKY UNIVERSITY  
Susan Stringer, 18-212.

EDUCATION, DEPARTMENT OF  
Rutherford Learning Group, 1800000544; NCS Pearson, Inc., 1800000546; Jim Shipley & Associates, Inc., 1800000637.

KENTUCKY LOTTERY CORPORATION  
Ellipse Solutions, LLC, 18-17-016.

NORTHERN KENTUCKY UNIVERSITY  
Viox & Viox, 2018-106; Schultz & Williams, Inc., 2018-109; Buffalo Trace Surveying, LLC, 2018-110.

TRANSPORTATION CABINET  
American Appraisers Corporation, 1700002485; Thoroughbred Real Estate Services, LLC, 1700002486; Charles Joseph Bird, 1700002488; Harold Brantley, 1700002489; McPherson Appraisal Service, 1700002490; Thurston Freeman, 1700002492; Integra

Realty Resources Kentucky-Southern Indiana, 1700002493; Bluegrass Valuation Group, LLC, 1700002494; Darin Sizemore, 1700002495; Appco Appraisal Service, Inc., 1800000181; David P. Schoepf Associates, Inc., 1800000182; RHA, LLC, 1800000726; HDR Engineering, Inc., 1800000729; Stantec Consulting Services, Inc., 1800000730; Garver, LLC, 1800000736; QK4, Inc., 1800000826.

UNIVERSITY OF KENTUCKY  
CMTA, Inc., A181110; Stimulating Solutions, LLC, K18-132; New City Media, Inc., K18-133; New City Media, Inc., K18-134.

UNIVERSITY OF LOUISVILLE  
Advances in Education, 18-041; Trane US, Inc., 18-042.

WESTERN KENTUCKY UNIVERSITY  
Greenwood/Asher & Associates, Inc., 171819.

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

DENTISTRY, BOARD OF  
Brian Fingerson RPH, Inc., 1700000105; McBrayer, McGinnis, Leslie and Kirkland, 1700000265.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES  
Patricia F. Seybold, 1700001611.

DEPARTMENT FOR PUBLIC HEALTH  
Thomas Joseph Hickey, 1700000375.

DEPARTMENT OF REVENUE  
Billy Whitaker, 1700002357.

EASTERN KENTUCKY UNIVERSITY  
Cammack Retirement Group, 18-114; Mountjoy Chilton Medley, 18-117.

EDUCATION, DEPARTMENT OF  
Brian P. White, 1600002287.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING  
Omni Architects, 0700003255; Biagi Chance Cummins London Titzer, Inc., 1300001446; Stantec Consulting Services, Inc., 1400000625; Omni Architects, 1400000794; Murphy & Graves & Trimble, PLLC, 1500000604; ALT32, PSC, 1500000928; CMTA, Inc., 1600000674.

JUVENILE JUSTICE, DEPARTMENT OF  
Brenda K. Wilburn, 1600003021; Denise Adams, 1700000648; Larry Cavanah, 1700000649; Patricia A. Hurt, 1700000768;

Shirley Lafavers, 1700000769; Lisa Cross, 1700000943.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM  
SCATE, Inc., 688; SCATE Inc., 696.

NORTHERN KENTUCKY UNIVERSITY  
Kalil & Co., Inc., 2017-118; JMS & Associates, Inc., 2017-122.

TRANSPORTATION CABINET  
Gresham Smith & Partners, 1300002683; W.M.B, Inc., 1300002818; HMB Professional Engineers, Inc., 1600000469; Stantec Consulting Services, Inc., 1600001742; Palmer Engineering, 1600003081; Palmer Engineering, 1700001724; GRW Engineers, Inc., C-01232797-1; HNTB Corporation, C-99005232-8.

UNIVERSITY OF KENTUCKY  
GBBN, A151180.

UNIVERSITY OF LOUISVILLE  
Multi, 17-018 A-D.

WESTERN KENTUCKY UNIVERSITY  
Multi, 161807.

WORKER'S COMPENSATION FUNDING COMMISSION  
Goldberg Simpson, LLC, 1600002435.

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

DEPARTMENT FOR COMMUNITY BASED SERVICES  
Owl d/b/a Opportunity for Work and Learning, 1800000676; Green River Regional Mental Health Mental Retardation Board, 1800000677.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
UK Research Foundation, 1800000115; UK Research Foundation, 1800000122; Kentucky Geological Survey, 1800000422; Kentucky Dairy Development Council, 1800000513.

DEPARTMENT FOR MEDICAID SERVICES  
Kentucky Partnership for Families and Children, Inc., 1800000758.

DEPARTMENT FOR NATURAL RESOURCES  
Multi, 1800000232; Multi, 1800000236; Kentucky Department of Fish and Wildlife Resources, 1800000552.



EARLY CHILDHOOD ADVISORY COUNCIL

Ohio Valley Education Cooperative, 1800000643; Kenton County Public Library, 1800000695.

EDUCATION, DEPARTMENT OF

Department of Corrections, 1700002652; Walton - Verona Board of Education, 1800000179; Southern Regional Education Board, 1800000304; Fayette County Public Schools, 1800000475; University of Kentucky Research Foundation, 1800000516; Kentucky Educational Development Corporation, 1800000536; Fayette County Board of Education, 1800000547; Pulaski County Board of Education, 1800000554; Kentucky Valley Education, 1800000559; University of Kentucky Research Foundation, 1800000571; Collaborative for Teaching, 1800000606.

MILITARY AFFAIRS, DEPARTMENT OF

Multi, 1800000505; Olive Hill City of (Pa), 1800000693.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT

Bluegrass Area Development District, 1800000286; Northern Kentucky Area Development District, 1800000296; Webster County Fiscal Court, 1800000407; Bell County Fiscal Court, 1800000570; City of Coal Run Village, 1800000647; City of Ewing, 1800000649; City of Paducah, 1800000694; City of Campbellsville, 1800000725; City of Corbin, 1800000733; City of Hopkinsville, 1800000734; Hopkins County Fiscal Court, 1800000737; Whitley County Fiscal Court, 1800000738; Harlan County Fiscal Court, 1800000760; City of Springfield, 1800000762; Hopkins County Fiscal Court, 1800000770; City of Morganfield, 1800000772; Hopkins County Fiscal Court, 1800000776; Hopkins County Fiscal Court, 1800000777; Pike County Fiscal Court, 1800000780; City of Earlington, 1800000791; City of Independence, 1800000795; City of Morehead, 1800000813; Webster County Fiscal Court, 1800000824; City of Benton, 1800000832; Harlan County Fiscal Court, 1800000833; City of Elkton, 1800000841; Daviess County Fiscal Court, 1800000848.

TRAVEL, DEPARTMENT OF

Multi, 1800000307; Multi, 1800000313; Multi, 1800000314; Multi, 1800000315; Multi, 1800000320; Multi, 1800000400; Multi, 1800000589; Multi, 1800000594.

UNIVERSITY OF KENTUCKY

Kentucky Appalachian Transition Services, MOU-001-18.

WORKFORCE INVESTMENT, OFFICE OF  
City of Bowling Green, 1800000608; City of Bowling Green, 1800000609.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS

Morehead State University, 1500001324; Morehead State University, 1500001325; Morehead State University, 1500001328; Lifeskills Corporation Offices, 1500001336; River Valley Behavioral Health, 1500001337; Pennyroyal Mental Health, 1500001338; Bluegrass Prevention Center, 1500001339.

AGRICULTURE, DEPARTMENT OF

Multi, 1700001857.

DEPARTMENT FOR AGING & INDEPENDENT LIVING

Multi, 1700002626; United Way of the Bluegrass, 1700002641.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Kentucky Partnership for Families and Children, Inc., 1600001718; Chestnut Health Systems, Inc., 1600001724; St. Elizabeth Medical Center, 1700000518.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Jobs for the Future, 1600002681; Kentucky Association of Child Advocacy Centers, 1700001567.

DEPARTMENT FOR MEDICAID SERVICES

Cabinet for Workforce Development, 1700001840.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Pharmacy Education and Research Foundation, Inc., 1600002278; University of Kentucky Research Foundation, 1600002282; U of L Research Foundation, 1600002326.

EARLY CHILDHOOD ADVISORY COUNCIL

Eastern Kentucky University, 1600002551.

EDUCATION PROFESSIONAL STANDARDS BOARD

Oldham County Board of Education, 1700001941.

EDUCATION, DEPARTMENT OF

Jefferson County Board of Education, 1700001623; Pike County Board of Education,

1700001638; Kentucky Valley Education, 1700001674.

INFRASTRUCTURE AUTHORITY

Perry County Fiscal Court, 1300001502.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT

McLean County Fiscal Court, 1400003124; Wolfe County Fiscal Court, 1600000238; Wolfe County Fiscal Court, 1600001095; Harrison County Fiscal Court, 1600002014; Mercer County Fiscal Court, 1700000007; Muhlenberg County Fiscal Court, 1700002109.

THE FOLLOWING FILM TAX INCENTIVES WERE REVIEWED WITHOUT OBJECTION:

TOURISM DEVELOPMENT CABINET

The Haunted Doll Company, LLC, 1800000827; La Reliquia, LLC, 1800000828; Hook Interactive, LLC, 1800000830; Star Light Movie, LLC, 1800000831.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

NORTHERN KENTUCKY UNIVERSITY

Howard Law, PLLC, 2018-107; Brubaker & Associates, 2018-108. Joan Gates, Adam Caswell, and Blaine Gilmore discussed the contracts with the committee. A motion was made by Representative St. Onge to consider the contracts as reviewed. Senator Wise seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR MEDICAID SERVICES

Navigant Consulting, Inc., 1700001679. Jill Hunter, Deck Decker, and Earl Gresham discussed the contract with the committee. A motion was made by Senator Raque Adams to consider the contract as reviewed. Representative St. Onge seconded the motion, which passed.

UNIVERSITY OF KENTUCKY

Cenergistic, LLC, K17-116. Naomi Emmons and Mary Vosevich discussed the contract with the committee. A motion was made by Senator Raque Adams to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

## EXEMPTION REQUESTS:

### HEALTH AND FAMILY SERVICES

The Department of Aging and Independent Living (DAIL) requested an exemption from the two year contracting restrictions in order to establish a Memorandum of Agreement for the Nutrition Services Incentive Program; 100% Federal Funds. A motion was made by Representative Lee to grant the request to September 30, 2018. Representative Horlander seconded the motion, which passed without objection.

### HEALTH AND FAMILY SERVICES

The Department of Aging and Independent Living (DAIL) requested an exemption from the two year contracting restrictions for an agreement with the Area Development Districts for the purpose of providing enhanced outreach to eligible Medicare beneficiaries for their benefits and enhanced outreach to individuals who may be eligible for several Medicare and Medicaid programs for the Medicare Improvements for Patients and Providers Act (MIPPA); 100% Federal Funds. A motion was made by Representative Lee to grant the request to September 30, 2018. Representative Horlander seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 10:31 AM.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the November Meeting**

November 13, 2017

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

The November meeting of the Administrative Regulation Review Subcommittee was held on Monday, November 13, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members : Senator Ernie Harris, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Julie Raque Adams, and Perry B. Clark; Representatives Mary Lou Marzian, and Jason Petrie.

Guests: Emily Dennis, Registry of Election Finance; Sharron Burton, Personnel Cabinet; Rebecca Rogers Johnson, Ed Ross, Lisa Swiger, Department of Revenue; Scott Greenwell, Board of Pharmacy; Nathan Goldman, Board of Nursing; Jared Downs, Stacy Grider, Brian Judy, Martin Wesley, Board of Licensure for Occupational Therapy; Amber Arnett, Ron Brooks, Karen Waldrop, Department of Fish and Wildlife Re-sources; Joe Bilby, Jason Glass,

Clint Quarles, Department of Agriculture; Rick Bender, Aaron Keatley, Joh Maybriar, Bruce Scott, Larry Taylor, Department of Environmental Protection; Jeffery Biard, Allen Luttrell, Department of Natural Resources; Mark Jordan, Steven Milby, Da-vid Moore, David Startzman, Department of Housing, Buildings and Construction; Mary Lewis, Brandon Smith, Eric Smith, Office of Health Policy; Steve Davis, Stephanie Hold, Jill Lee, Office of Inspector General; Laura Begin, Erica Brakefield, Ken Spach, Jennifer Wolsing, Department of Public Health; Donna Little, Department of Medicaid; Michelle Anderson, Elizabeth Caywood, Steven Fisher, Gretchen Marshall; Department for Community Based Services; Dr. Trish Freeman, Cindy Stone, Leslie Kenney, Patty Swiney. Nancy Galvagni, Mary Haynes, Betsy Johnson, Bill Barr.

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

The Administrative Regulation Review Subcommittee met on Monday, November 13, 2017, and submits this report:

Administrative Regulations Reviewed by the subcommittee:

DEPARTMENT OF STATE: Registry of Election Finance: Reports and Forms

32 KAR 1:020 & E. Statement of spending intent and appointment of campaign treasurer. Emily Dennis, general counsel, represented the registry.

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

PERSONNEL CABINET: Office of the Secretary: Personnel Cabinet, Classified

101 KAR 2:210 & E. 2018 Plan year handbook for the public employee health insurance program. Sharon Burton, deputy executive director and counsel, represented the cabinet.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: General Administration

103 KAR 1:120. Employee access to federal tax information (FTI). Rebecca Johnson, disclosure and security officer; Ed Ross, state controller; and Lisa Swiger, tax policy research consultant, represented the department.

In response to questions by Co-Chair Harris, Ms. Johnson stated that employees subject to the background check were previously investigated only by a simple background check provided through the Administrative Office of the Courts. This amendment added a federally mandated fingerprint FBI background check.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Income Tax; Corporations

103 KAR 16:391. Repeal of 103 KAR 16:390 and 103 KAR 16:020.

Income Tax; Individual

103 KAR 17:151. Repeal of 103 KAR 17:150.

Sales and Use Tax; Service and Professional Occupations

103 KAR 26:110. Motor carrier repair and replacement parts.

Sales and Use Tax; Miscellaneous Retail Transactions

103 KAR 28:150. Collection of sales tax on certain motor vehicle sales.

Sales and Use Tax; Administration and Accounting

103 KAR 31:050. Returned merchandise.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 31:180. Signature project refunds on construction costs.

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

103 KAR 31:190. Alternative fuel, gasification, and renewable energy facility refunds on construction costs.

103 KAR 31:200. Energy efficiency projects.

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

Selective Excise Tax; Motor Vehicle Usage

103 KAR 44:060. Motor vehicle usage tax



valuation.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 44:070. Taxation of loaner and rental motor vehicles.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; and (2) to amend 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.

103 KAR 44:100. Procedures for refund based on vehicle condition.

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

103 KAR 44:120. Incorrect statement of origin or certificate of title.

Tax Increment Financing

103 KAR 50:021. Repeal of 103 KAR 50:020, 103 KAR 50:030 and 103 KAR 50:040.

Office of the Controller

200 KAR 38:021. Repeal of 200 KAR 38:020 and 201 KAR 38:030.

GENERAL GOVERNMENT CABINET:  
Board of Pharmacy

201 KAR 2:380. Board authorized protocols. Scott Greenwell, president, represented the board. Dr. Trish Freeman, chair, Kentucky Pharmacists Association; Dr. Cindy Stowe, dean, Sullivan University College of Pharmacy; and Leslie Kenney, hospital pharmacist, Kentucky Society Health-system Pharmacists, appeared in support of this administrative regulation. Dr. Patty Swiney, Kentucky Academy of Family Physicians, appeared in opposition to this administrative regulation.

In response to questions by Senator Raque Adams, Mr. Greenwell stated that KRS 315.010, revised during the 2016 Regular Session of the General Assembly, updated the definition of "prescription drug order" to include prescriber-driven protocols. This administrative regulation was promulgated in response to that statutory revision to establish board procedures for the authorization of prescriber-driven protocols

by which pharmacists dispensed medications or other professional services. Past examples of prescriber-driven protocols performed by pharmacists included administration of vaccinations for immunization and naloxone for opioid overdose. Controlled substances were excluded from this administrative regulation. While vaccinations for immunization and naloxone for opioid overdose were specifically established by the board's statutory authority, KRS 315.010 was revised to include general prescriber-driven protocols; therefore, it was unnecessary to have each specific type of protocol directly established by statute. Dr. Swiney stated that the Kentucky Academy of Family Physicians (KAFP) was made aware of the development of this administrative regulation and attempted to work with the board to resolve concerns. After public comments, the board amended the administrative regulation in response to a comment the KAFP made regarding the need to exclude controlled substances from the possible protocols, but the board did not address KAFP's other concerns.

In response to questions by Senator Clark, Mr. Greenwell stated that the vaccinations for immunization currently being dispensed by pharmacists were based on prescriber-driven protocols, typically based on a general standing order from a prescriber.

Dr. Freeman stated that Kentucky Pharmacists Association, which represented over 1,800 pharmacy professionals throughout the Commonwealth, enthusiastically supported this administrative regulation to establish procedures for board authorization of protocols for pharmacists under the direction of prescribers to provide mutually agreed upon services. Healthcare access in Kentucky was a growing concern, and this program promised to be an important component in bridging the gap, especially in rural areas. This program provided for evidence-based, prescriber-driven, board-authorized protocols to enhance patient and public health. Pharmacists were only authorized to provide these services based on specific prescriber-driven protocols approved by the board pursuant to rigorous criteria. Pharmacists did not have independent authority to prescribe and dispense medication. In response to comments by Dr. Swiney, Dr. Freeman stated that the Kentucky Pharmacists Association met with KAFP and other stakeholders regarding concerns about this administrative regulation. Separate administrative regulations for each protocol was going to be a lengthy process; therefore, a decision was made to develop a regulatory process for the board itself to approve or deny the protocols. The general protocol development requirements were based on the naloxone protocol requirements.

Dr. Stowe stated that Sullivan University College of Pharmacy fully supported this administrative regulation. Pharmacist education prepared students for team-based collaborative, direct-patient care as part of an inter-professional healthcare team. Training included collecting and interpreting evidence; prioritizing problems; formulating assessments and recommendations; implementing, monitoring, and adjusting plans of care; and documenting services. Pharmacists were fully prepared to perform protocol-based care, and this administrative regulation required that any protocol initiated between a pharmacist and a prescriber (and authorized by the board) must establish that any additional education necessary shall be completed prior to protocol implementation.

Ms. Kenney, as a pharmacist with Norton HealthCare and president for the Kentucky Society of Health-system Pharmacists, stated that pharmacists had long been trained to perform collaboratively with prescribers. Kentucky citizens deserved this type of care, which was timely, proactive, and collaborative. Pharmacists were ready to implement this administrative regulation.

Dr. Swiney stated that the KAFP was opposed to this administrative regulation because the proposed protocols were inappropriately broad. When the KAFP met with the Kentucky Pharmacists Association and the board about this program, the initial proposal was for nine (9) to eleven (11) diagnoses and associated protocols for matters such as smoking cessation. While protocols for vaccinations for immunization and naloxone for opioid overdose had proven very successful, this administrative regulation reached far beyond that and included the potential for 1,000 new protocols. The only limitation was the prohibition on the dispensing of controlled substances. Patient care needed to be individualized, especially for those with complicated diseases such as diabetes. Improper clinical knowledge or diagnosis could be life threatening. Continuity of care may be disrupted. For example, a patient may be in the process of being weaned from a medication, but a pharmacist may not be aware that the dosage was being scaled back. This administrative regulation required an attempted communication with the primary care provider within thirty (30) days; however, this deadline was unacceptable. Communication should be required within twenty-four (24) to forty-eight (48) hours. For a patient without a primary care provider, this administrative regulation does not address assisting the patient in finding a provider. A pharmacist, while an important member of a healthcare team, was not a primary care provider. Section 2 of this administrative regulation referenced "other professional



services;" however, the term was vague and needed to be defined. Other pertinent issues not addressed by this administrative regulation included pharmacist examination fees, increased pharmacist malpractice requirements, patients on multiple medications, and nonmedicinal modalities such as physical therapy or nutritional assessment. The protocols are required to have Board of Pharmacy approval, but not necessarily approval of the Kentucky Board of Medical Licensure or the Kentucky Board of Nursing. There would not General Assembly input in the protocols as was statutorily required with vaccinations for immunization. Naloxone was vetted by the General Assembly for public safety prior to that protocol being put in place. It was unclear if protocols would vary from pharmacy to pharmacy or be consistent throughout the Commonwealth. The REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT did not clarify if additional pharmacist education would be necessary for the new protocols and, if so, what the procedural requirements would be. The scope of this administrative regulation should be limited to address some of these concerns.

Co-Chair Harris stated that the board was required to ensure patient safety and care throughout the protocol system. It was concerning, especially from a continuity of care angle, that this administrative regulation was expanding pharmacists authority. The subcommittee did not request that the board defer consideration of this administrative regulation because the Interim Joint Committee on Health and Welfare and Family Services planned to meet in December and this administrative regulation was going to be considered at that subject matter-specific committee meeting. Co-Chair Harris asked the board to work with all stakeholders to ensure patient safety and an appropriate administrative regulation.

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

Board of Nursing

201 KAR 20:505E. Enhanced nurse licensure compact. Nathan Goldman, general counsel, represented the board.

Board of Licensure for Occupational Therapy

201 KAR 28:200. Continuing competence. Jared Downs, counsel, and Stacy Grider, occupational therapist, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 6 to comply with the drafting

requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:235. Telehealth occupational therapy services.

In response to a question by Co-Chair Harris, Ms. Grider stated that telehealth occupational therapy included services such as follow ups regarding home exercise, caregiver education, and visual or cognitive therapy.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend Section 1 to: (a) add a definition for "client;" and (b) include an occupational therapist assistant under the definition of "telehealth occupational therapy;" (3) to amend Section 2 to: (a) clarify that contact methods included the use of a telephone number or mailing address, and an emergency on call telephone number for emergency purposes; and (b) establish that a client shall be informed by the credential holder of the potential risks of inadvertent access of protected health information, and how the credential holder may elect to discontinue the provision of services through telehealth; and (4) to amend Sections 2, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Professional Counselors

201 KAR 36:030. Continuing education requirements. Brian Judy, assistant attorney general, and Martin Wesley, dean, School of Counseling, University of the Cumberlands; former board chair; and current board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to add a state counseling licensure board to the list of providers not requiring board review and approval; and (2) to amend Section 10 to clarify: (a) that the continuing education requirement shall be completed on or before the renewal date established in 201 KAR 36:075; and (b) if the deadline is missed, the applicant shall submit a reinstatement application. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 36:050. Complaint management process.

A motion was made and seconded to approve the following amendments: to amend Section 5 to: (1) clarify that the Complaint Screening Committee may recommend to the board that a private written reprimand be issued; and (2) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 36:060. Qualifying experience under supervision.

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

201 KAR 36:065. Licensed professional clinical counselor supervisor.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend Section 1 to: (a) clarify the supporting documentation the applicant shall submit with the application; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 3 to revise the LPCC-S Application. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 36:070. Application, education, and examination requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to: (a) clarify that submission of the criminal background check shall be within fourteen (14) days of its receipt rather than of its completion; (b) clarify that an applicant does not have to disclose expunged cases for the purposes of a conviction; and (c) require an applicant who does not receive the FBI background check within 180 days of the issuance of a license to notify the board in writing; (2) to amend Sections 4 and 6 to comply with the drafting requirements of KRS Chapter 13A; (3) to amend Section 6 to add provisions pursuant to the approval of remedial work; and (4) to update the Application for Licensed Professional Clinical Counselor to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 36:072. Reciprocity requirements for applicants licensed or certified in another state.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) clarify that submission of the criminal background check shall be within fourteen (14) days of its receipt rather than of its completion; (b) clarify that an applicant does not have to disclose expunged cases for the purposes of a conviction; and (c) require an applicant who does not receive the FBI background check within 180 days of the issuance of a license to notify the board in writing; (2) to amend Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 5 to update the Application for Licensed Professional Clinical Counselor by Reciprocity. Without objection, and with

agreement of the agency, the amendments were approved.

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

301 KAR 1:086. Repeal of 301 KAR 1:085, Mussel shell harvesting. Amber Arnett, staff attorney; Ron Brooks, fisheries division director; and Karen Waldrop, deputy commissioner, represented the department.

In response to questions by Senator Clark, Mr. Brooks stated that the department's programs to combat Asian carp encroachment were developing well, although more Asian carp reduction was necessary. Western Kentucky had three (3) fish processors, and one (1) processor expected to triple production after contracting with a new partner. The department, in conjunction with the public, was also creating a new fish house to distribute fish to the various processors. Kentucky Afield did a great job with the Asian carp tournament, including a video to demonstrate the problems and possible solutions pertaining to encroachment of the species.

301 KAR 1:130. Live bait for personal use.

301 KAR 1:155. Commercial fishing requirements.

301 KAR 1:410. Taking of fish by nontraditional fishing methods.

In response to questions by Co-Chair Upchurch, Mr. Brooks stated that nontraditional fishing methods included fishing techniques such as trot lines, jug lines, spear fishing, noodling, or any fishing method that did not include a fishing pole and line.

Department of Agriculture: Office of Consumer Protection: Aerial Recreational Devices and Facilities

302 KAR 17:010. Requirements for operating and inspecting aerial recreational devices and facilities. Joe Bilby, general counsel; Jason Glass, assistant director; and Clint Quarles, staff attorney, represented the department.

In response to questions by Co-Chair Harris, Mr. Bilby stated that this administrative regulation did not apply to private zip lines, such as a backyard assembly for family use. Mr. Quarles stated that the department expected that approximately 100 zip lines would be subject to this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 5 and 7 through 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

401 KAR 31:002. Repeal of 401 KAR 31:005, 401 KAR 31:010, 401 KAR 31:020, 401 KAR 31:030, 401 KAR 31:035, 401 KAR 31:040, 401 KAR 31:050, 401 KAR 31:070, 401 KAR 31:100, 401 KAR 31:110, 401 KAR 31:160, and 401 KAR 31:170. Aaron Keatley, commissioner, and Jon Maybriar, deputy director, represented the Division of Waste Management pertaining to administrative regulations in 401 KAR Chapters 31 through 39, 43, and 44 and KAR Title 410. Bruce Scott, deputy secretary, and Larry Taylor, environmental science consultant, represented the Department for Environmental Protection pertaining to administrative regulations in 401 KAR Chapters 45 and 48. Rick Bender, executive advisor, represented the Department for Natural Resources pertaining to administrative regulations in 805 KAR Chapters 1 and 9. Jennifer Wolsing, staff attorney, represented the Department for Public Health pertaining to 902 KAR 100:180. Jeff Baird, director, Division of Mine Permits, and Allen Luttrell, commissioner, represented the Department for Natural Resources pertaining to administrative regulations in 405 KAR Chapters 7, 8, 10, 12, 16, 18, and 20.

In response to questions by Representative Marzian, Mr. Keatley stated that the administrative regulations in 401 KAR Chapters 31 through 39, 43, and 44 and KAR Title 410 were being reorganized, but the requirements were not being substantively amended. These administrative regulations did not deviate from federal requirements except in instances of statutorily required, Kentucky-specific provisions. Fees mostly remained the same; however, there was a new, voluntary fee for very small generators in specific circumstances. Discounts were available regarding that fee.

In response to a question by Co-Chair Harris, Mr. Keatley stated that this was part of a seven (7) to eight (8) years process to consolidate and streamline these administrative regulations.

In response to a question by Co-Chair Upchurch, Mr. Keatley stated that the primary concern from petroleum marketers was the fee; therefore, an amendment was made to clarify that the fee was voluntary.

Standards Applicable to Generators of Hazardous Waste

401 KAR 32:002. Repeal of 401 KAR 32:005, 401 KAR 32:010, 401 KAR 32:020, 401 KAR 32:030, 401 KAR 32:040, 401 KAR 32:050, 401 KAR 32:060, 401 KAR 32:065, and 401 KAR 32:100.

Standards Applicable to Transporters of Hazardous Waste

401 KAR 33:002. Repeal of 401 KAR 33:005, 401 KAR 33:010, 401 KAR 33:020, and 401 KAR 33:030.

Standards for Owners and Operators of

Hazardous Waste Storage, Treatment and Disposal Facilities

401 KAR 34:002. Repeal of 401 KAR 34:005, 401 KAR 34:010, 401 KAR 34:020, 401 KAR 34:030, 401 KAR 34:040, 401 KAR 34:050, 401 KAR 34:060, 401 KAR 34:070, 401 KAR 34:080, 401 KAR 34:090, 401 KAR 34:100, 401 KAR 34:110, 401 KAR 34:120, 401 KAR 34:130, 401 KAR 34:180, 401 KAR 34:190, 401 KAR 34:200, 401 KAR 34:210, 401 KAR 34:220, 401 KAR 34:230, 401 KAR 34:240, 401 KAR 34:245, 401 KAR 34:250, 401 KAR 34:275, 401 KAR 34:280, 401 KAR 34:281, 401 KAR 34:285, 401 KAR 34:287, 401 KAR 34:290, 401 KAR 34:320, 401 KAR 34:330, 401 KAR 34:340, 401 KAR 34:350, 401 KAR 34:360, and 401 KAR 34:370.

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

401 KAR 35:002. Repeal of 401 KAR 35:005, 401 KAR 35:010, 401 KAR 35:020, 401 KAR 35:030, 401 KAR 35:040, 401 KAR 35:050, 401 KAR 35:060, 401 KAR 35:070, 401 KAR 35:080, 401 KAR 35:090, 401 KAR 35:100, 401 KAR 35:110, 401 KAR 35:120, 401 KAR 35:130, 401 KAR 35:180, 401 KAR 35:190, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, 401 KAR 35:230, 401 KAR 35:240, 401 KAR 35:245, 401 KAR 35:250, 401 KAR 35:260, 401 KAR 35:270, 401 KAR 35:275, 401 KAR 35:280, 401 KAR 35:281, 401 KAR 35:285, 401 KAR 35:290, 401 KAR 35:310, 401 KAR 35:320, 401 KAR 35:330, 401 KAR 35:340, and 401 KAR 35:350.

Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste

401 KAR 36:002. Repeal of 401 KAR 36:005, 401 KAR 36:020, 401 KAR 36:025, 401 KAR 36:030, 401 KAR 36:060, 401 KAR 36:070, 401 KAR 36:080, and 401 KAR 36:090.

Land Disposal Restrictions

401 KAR 37:002. Repeal of 401 KAR 37:005, 401 KAR 37:010, 401 KAR 37:020, 401 KAR 37:030, 401 KAR 37:040, 401 KAR 37:050, 401 KAR 37:060, and 401 KAR 37:110.

Hazardous Waste Permitting Process

401 KAR 38:002. Repeal of 401 KAR 38:005, 401 KAR 38:010, 401 KAR 38:020, 401 KAR 38:025, 401 KAR 38:030, 401 KAR 38:040, 401 KAR 38:050, 401 KAR 38:060, 401 KAR 38:070, 401 KAR 38:080, 401 KAR 38:090, 401 KAR 38:150, 401 KAR 38:160, 401 KAR 38:170, 401 KAR 38:180, 401 KAR 38:190, 401 KAR 38:200, 401 KAR 38:210, 401 KAR 38:230, 401 KAR 38:240, 401 KAR 38:250, 401 KAR 38:260, 401 KAR 38:270, 401 KAR 38:290, 401 KAR 38:300, 401 KAR 38:310, 401 KAR 38:320, 401 KAR 38:330, and 401 KAR 38:500.

Hazardous Waste Fees

401 KAR 39:005. Definitions for 401 KAR Chapter 39.



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

401 KAR 39:011. Repeal of 401 KAR 39:100 and 401 KAR 39:110.

401 KAR 39:060. General requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; and (2) to amend Sections 1 through 3, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 39:080. Hazardous waste handlers.

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

401 KAR 39:090. Hazardous waste permit program.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraph to add citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 5 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 39:120. Permit review, determination timetables, and fees.

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

Standards for Special Collection System Wastes

401 KAR 43:002. Repeal of 401 KAR 43:005, 401 KAR 43:010, 401 KAR 43:020, 401 KAR 43:030, 401 KAR 43:040, 401 KAR 43:050, 401 KAR 43:060, and 401 KAR 43:070.

Standards for the Management of Used Oil

401 KAR 44:002. Repeal of 401 KAR 44:005, 401 KAR 44:010, 401 KAR 44:020, 401 KAR 44:030, 401 KAR 44:040, 401 KAR 44:050, 401 KAR 44:060, 401 KAR 44:070, and 401 KAR

44:080.

Special Waste

401 KAR 45:060. Special waste permit-by-rule.

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.

Standards for Solid Waste Facilities

401 KAR 48:005. Definitions related to 401 KAR Chapter 48.

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

401 KAR 48:090. Operating requirements for contained landfills.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3, 4, 10, 11, and 14 through 16 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to require, rather than allow, a public comment process for a minor permit modification. Without objection, and with agreement of the agency, the amendments were approved.

Department for Natural Resources: Division of Mine Permits: General Provisions

405 KAR 7:001. Definitions for 405 KAR Chapter 7.

In response to questions by Co-Chair Harris, Mr. Luttrell stated that, regarding administrative regulations in 405 KAR Chapters 7, 8, 10, 12, 16, 18, and 20, "in situ mining" was extracting coal with the coal seam in place by pneumatic or chemical processes. Mr. Luttrell did not know of any in situ mining conducted in Kentucky; however, the requirements were federally mandated. "Shadow area" was the area above drilling in situations of auger mining or, in underground mining, the area over the face excavation or box cut. "Auger mining" was a process of removing a portion of the overburden and drilling into the coal seam to extract coal. While there were few impacts to the surface in these types of mining, mining activities continued to be subject to requirements for things like subsidence, depression mitigation, and notice to on-site dwellings.

In response to a question by Senator Adams, Mr. Luttrell stated that the "shadow area" provisions applied only to coal mining activities.

A motion was made and seconded to approve

the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) 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.

405 KAR 7:095. Assessment of civil penalties.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7 and Appendix A to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Permits

405 KAR 8:001. Definitions for 405 KAR Chapter 8.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) 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.

405 KAR 8:010. General provisions for permits.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 5 through 9, 11 through 14, and 16 through 25 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 8:040. Underground coal mining permits.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5, 9, 10, 12 through 16, 18, 20 through 24, 26 through 32, and 34 through 38 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 8:050. Permits for special categories of mining.

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

the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 9 to comply with the drafting and



formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Bond and Insurance Requirements**

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

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

**Inspection and Enforcement**

405 KAR 12:001. Definitions for 405 KAR Chapter 12.

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

**Performance Standards for Surface Mining Activities**

405 KAR 16:001. Definitions for 405 KAR Chapter 16.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) 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.

405 KAR 16:110. Surface and groundwater monitoring.

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

**Performance Standards for Underground Mining Activities**

405 KAR 18:001. Definitions for 405 KAR Chapter 18.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the

agency, the amendments were approved.

405 KAR 18:010. General provisions.

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

405 KAR 18:040. Casing and sealing of underground openings.

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 and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 18:060. General hydrologic requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 6 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 18:110. Surface and groundwater monitoring.

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

405 KAR 18:260. Other facilities.

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

**Special Performance Standards**

405 KAR 20:001. Definitions for 405 KAR Chapter 20.

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

405 KAR 20:080. In situ processing.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) amends 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.

405 KAR 20:090. Underground only permits.

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

**Division of Waste Management: Certificates of Environmental Safety and Public Necessity**

410 KAR 1:002. Repeal of 410 KAR 1:010 and 410 KAR 1:020.

**ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas: Division**

805 KAR 1:060. Plugging wells.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend Section 2 to clarify expiration; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

805 KAR 1:071. Repeal of 805 KAR 1:070.

**Division of Oil and Gas: Coal Bed Methane**

805 KAR 9:041. Repeal of 805 KAR 9:040.

**PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Division of Plumbing, Boiler Section: Boilers and Pressure Vessels**

815 KAR 15:010. Definitions for 815 KAR Chapter 15. Mark Jordan, chief boiler inspector; Steven Milby, commissioner; and David Startzman, general counsel, represented the division.

In response to questions by Co-Chair Harris, Mr. Jordan stated that these administrative regulations were consistent with national standards established in the National Board Inspection Code. Mr. Startzman stated that the division did not receive comments of concern from stakeholders who seemed to recognize the need for standardization.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting

requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:025. New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors.

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.

815 KAR 15:027. Fees and certificates for boiler and pressure vessel inspection.

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.

815 KAR 15:041. Repeal of 815 KAR 15:040, 815 KAR 15:051, and 815 KAR 15:060.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Benefit Exchange; Office of Health Policy; State Health Plan

900 KAR 5:020. State Health Plan for facilities and services. Eric Clark, chief of staff; Molly Lewis, deputy general counsel and acting director of Certificate of Need; and Brandon Smith, director, Office of Legislative and Regulatory Affairs, represented the office. Nancy Galvagni, senior vice president, Kentucky Hospital Association, appeared in support of this administrative regulation. Mary Haynes, CEO, Nazareth Home, and Betsy Johnson, president, Kentucky Association of Healthcare Facilities, appeared in opposition to this administrative regulation.

In response to questions by Senator Adams, Mr. Clark stated that the office considered stakeholder input in developing this administrative regulation. The office received 420 public comments prior to filing this administrative regulation, and 400 public

comments were submitted after filing. This version of the State Health Plan removed a pilot project related to cardiac catheterization in hospitals, streamlined home health services, and addressed post-acute rehabilitation related to long-term care. Post-acute rehabilitation was not related just to nursing home beds pursuant to Medicare, but also included skilled nursing facility beds pursuant to both Medicare and Medicaid. This administrative regulation created a post-acute transitional-bed four (4) site pilot project, including two (2) urban sites and two (2) rural sites, to evaluate whether or not these beds would improve quality of care, reduce hospital readmission rates, and improve access for Kentucky's aging population. The office did not want to defer consideration of this administrative regulation to the December subcommittee meeting because there had already been sufficient public input and the office did not want to further delay important programs related to the opioid abuse epidemic and neonatal intensive care units. Ms. Lewis stated that this administrative regulation provided flexibility by allowing capable hospitals, exterior to the Certificate of Need process, to treat infants that needed additional special neonatal services.

Senator Adams stated that, as with the Board of Pharmacy administrative regulation, 201 KAR 2:380, this administrative regulation would be considered further by the Interim Joint Committee on Health and Welfare and Family Services at its December meeting.

In response to a question by Senator Clark, Mr. Clark stated that employees had criminal background checks through the Kentucky State Police.

Ms. Galvagni stated that Kentucky Hospital Association strongly supported the State Health Plan. The neonatal intensive care unit flexibility was important, especially in rural areas. The home health changes and the transitional-bed four (4) site pilot project were also good for Kentucky. Currently, hospitals received financial penalties if a patient was discharged and readmitted within thirty (30) days, regardless of the reason. In 2017, the state-wide penalty total was \$18 million. Patients had access problems in finding quality high-skilled long-term care providers. It was taking from weeks to months to place patients in certain situations. This administrative regulation gave those patients a choice to stay in the hospital or seek another provider facility.

Ms. Johnson stated that the Kentucky Association of Healthcare Facilities was opposed to this administrative regulation because the post-acute transitional-bed four (4) site pilot project increased costs to the Medicaid program. Members of the Kentucky Association of Healthcare Facilities filed over 200 letters of

concern regarding these changes to the State Health Plan. The cabinet's own data indicated a surplus of long-term care beds. This plan was bad public policy, and the cabinet was acting in excess of its statutory authority. Kentucky was below the national average on readmission to a hospital within thirty (30) days after discharge. The association requested that this administrative regulation be amended to remove the post-acute transitional-bed four (4) site pilot project.

Ms. Haynes stated that Nazareth Home was opposed to the post-acute transitional-bed four (4) site pilot project because the rationale and criteria for the project was erroneous. There was already a surplus of beds, and this plan provided the potential for an unlimited number of skilled nursing facility beds. There was not a clear problem the pilot program was attempting to remedy. Long-term care facilities were subject to the same financial penalties for patient readmission within thirty (30) days after discharge. Performance penalties were a major issue in a state that ranked high in obesity, smoking, lack of physical activity, poverty, and hypertension. Insurance markets were unstable and would affect long-term care facilities; therefore, this project was untimely. Pilot project goals and criteria were vague.

In response to a question by Representative Marzian, Ms. Haynes stated that SNF beds were skilled nursing facility beds.

Representative Marzian stated that she would like to see an amendment at the December meeting of the Interim Joint Committee on Health and Welfare and Family Services, to remove the post-acute transitional-bed four (4) site pilot project from the State Health Plan until more data was available and more specific standards were included. It was important to protect taxpayer funds when there was already a surplus of beds. Representative Marzian requested that the cabinet work with Ms. Johnson and Ms. Haynes and be prepared with detailed support data at the December committee meeting.

In response to questions by Co-Chair Harris, Ms. Lewis stated that each applicant was required to demonstrate the ability to provide a given type of care for a specified length of time, with the patient then being discharged to the needed care situation. The pilot project was needed because this was a different type of service, outside of the normal need methodology. There were complex reasons for surplus beds, such as gender of the patient that may necessitate one (1) person per room, rather than multiple people.

In response to a question by Co-Chair Upchurch, Ms. Lewis stated that the beds discussed in Clinton County were skilled nursing facility beds.

Co-Chair Harris stated that Kentucky was in a difficult time period for these issues.



Communication was key.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to change the edition date of the state health plan; and (2) to amend the material incorporated by reference to delete superfluous language. Without objection, and with agreement of the agency, the amendments were approved.

Division of Audits and Investigations: Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances. Steve Davis, inspector general; Stephanie Hold, director, Office of Legal Services; Jill Lee, pharmacist; and Brandon Smith, director, Office of Legislative and Regulatory Affairs, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Radon

902 KAR 95:040. Radon Contractor Certification Program. Laura Begin, legislative and regulatory analyst; Erica Brakefield, section supervisor; Brandon Smith, director, Office of Legislative and Regulatory Affairs; and Ken Spach, branch manager, represented the department.

In response to questions by Co-Chair Harris, Ms. Begin stated that the department met with providers and made further amendments to this administrative regulation to address public health concerns. The underlying concern about competition in the marketplace was also addressed in balance with the public health concerns. This program had very strict authorizing statutes; however, this administrative regulation was able to delete some administrative burdens while still protecting public health.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 4 through 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to delete three (3) definitions; (3) to amend Section 4 to delete language that a mitigation system shall be designed to reduce a radon concentration in each area within the footprint of the building as low as reasonably achievable; (4) to amend Section 4 to require additional radon mitigation and testing until the level is as low as reasonably achievable if there was a failure to achieve a reduction below the EPA's action level of four and zero-tenths (4.0) picocuries per liter; and (5) to amend Section 5 to require a dually certified person to acquire sixteen (16) hours of continuing educational credits per year and to delete the ABIH, AIHA,

and WHO from the list of radon training courses or standard operating procedures approved. Without objection, and with agreement of the agency, the amendments were approved.

Radiology

902 KAR 100:180. Technologically enhanced naturally occurring radioactive material related to oil and gas development.

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

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

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services. Donna Little, regulatory compliance senior policy advisor, and Brandon Smith, director, Office of Legislative and Regulatory Affairs, represented the division.

In response to a question by Co-Chair Harris, Ms. Little stated that 907 KAR 1:102 and 1:104 had agency amendments to revise definitions for consistency with other administrative regulations that were amended through the Amended After Comments process.

907 KAR 1:047. Community mental health center primary care services.

907 KAR 1:102. Advanced practice registered nurse services.

A motion was made and seconded to amend Section 1 to revise the definition of "provider group" for consistency with other department regulations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:104. Reimbursement for advanced practice registered nurse services.

A motion was made and seconded to approve the following amendments: to amend Section 1 to revise the definition of "provider group" for consistency with other department administrative regulations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:479. Durable medical equipment covered benefits and reimbursement.

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

922 KAR 1:140 & E. Foster care and adoption permanency services. Michelle Anderson, assistant director; Elizabeth Caywood, executive advisor; Eric Clark, chief of staff; Gretchen Marshall, assistant director; and Brandon Smith, director, Office of Legislative and Regulatory

Affairs, represented the division.

In response to questions by Representative Petrie, Ms. Caywood stated that the division had completed an analysis of the court's foster care determination in the case of D.O. v. Glisson; however, the programmatic planning from that analysis was still ongoing. The division was presenting the analysis at the Interim Joint Committee on Appropriations and Revenue at the November 20 meeting. Further details would be discussed at that committee meeting. Programmatic changes had the potential to impact state plans, funding, and administrative regulations. The division had a Kinship Care Hotline for those who may be eligible for foster care maintenance payments. Each case had to be reviewed individually to determine eligibility.

Representative Petrie expressed his gratitude to this agency. This was one of the most important areas of service within government.

In response to questions by Senator Clark, Ms. Caywood stated that, on November 5, 2017, at the time the Statewide Foster Care Data Fact Sheet was created, Kentucky had 8,667 children in out-of-home care. Ms. Anderson stated that it was not possible to determine how many of these children were removed from a home because the parent only had a violation related to cannabis, but the number was probably very low. Usually a removal related to cannabis included other complicating factors such as neglect or abuse. Mr. Clark expressed his gratitude to all those who worked so hard for almost a decade on this important regulatory package.

922 KAR 1:320. Service appeals.

922 KAR 1:330. Child protective services.

922 KAR 1:421. Repeal of 922 KAR 1:420.

922 KAR 1:430. Child protective services in-home case planning and service delivery.

A motion was made and seconded to approve the following amendments: to amend Section 3 to establish requirements. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:470. Central registry.

A motion was made and seconded to approve the following amendments: to amend Section 5 and the Child Care Central Registry Check form to: (1) change an edition date; and (2) comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:480. Appeal of child abuse and neglect investigative findings.

922 KAR 1:490 & E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements.

922 KAR 1:550 & E. Operator's license for children in the custody of the cabinet.



#### Adult Services

922 KAR 5:040. Standards for state-funded domestic violence shelters. Michelle Anderson, assistant director; Elizabeth Caywood, executive advisor; and Steven Fisher, branch manager, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 5:090. General adult services.

A motion was made and seconded to approve the following amendment: to amend Section 3 to clarify when a supervisor may approve an extension of time to complete an adult service assessment. Without objection, and with agreement of the agency, the amendment was approved.

922 KAR 5:111. Repeal of 922 KAR 5:100 and 922 KAR 5:102.

Other Business: Senator Raque Adams made a motion, seconded by Representative Marzian pursuant to KRS 13A.030(1) and (3), to request that a representative of the Department of Insurance appear at the December 12, 2017 meeting of the subcommittee to discuss a potential amendment to clarify 806 KAR 12:095, Section 9(1)(b). Without objection, the motion was approved.

The following administrative regulations were deferred or removed from the November 13, 2017, subcommittee agenda:

GENERAL GOVERNMENT CABINET:  
Board of Pharmacy

201 KAR 2:390 & E. Third-party logistics provider.

201 KAR 2:400 & E. Outsourcing facility.

Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder.

Hunting and Fishing

301 KAR 3:022. License, tag, and permit fees.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Air Quality: New Source Standards

401 KAR 59:015. New indirect heat exchangers.

Existing Source Standards

401 KAR 61:015. Existing indirect heat exchangers.

JUSTICE AND PUBLIC SAFETY CABINET:  
Department of Juvenile Justice: Parole Board

505 KAR 1:170. Department of Juvenile Justice Policies and procedures: Prison Rape Elimination Act of 2003 (PREA).

#### TRANSPORTATION

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

601 KAR 2:030 & E. Ignition interlock.

Department of Aviation: Airport Development

602 KAR 15:030. Fees for services and facilities of the Capitol City Airport.

Division of ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Mine Safety: Miner Training, Education and Certification

805 KAR 7:020. Training and certification of inexperienced miners.

805 KAR 7:030. Annual retraining.

805 KAR 7:040. Training of newly employed miners.

805 KAR 7:050. Training of miners for new work assignments.

805 KAR 7:060. Program approval.

Sanctions and Penalties

805 KAR 8:030. Criteria for the imposition and enforcement of sanctions against certified miners.

805 KAR 8:040. Criteria for the imposition and enforcement of sanctions against owners and part-owners of licensed premises.

805 KAR 8:050. Criteria for the imposition and enforcement of sanctions against noncertified personnel.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Benefit Exchange: Office of Health Policy: Kentucky Health Benefit Exchange

900 KAR 10:031. Repeal of 900 KAR 10:030 and 900 KAR 10:100.

Payment and Services

907 KAR 3:005. Coverage of physicians' services.

907 KAR 3:010. Reimbursement for physicians' services.

The subcommittee adjourned at 12:20 p.m. until December 12, 2017, at 1 p.m.

## CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

### Minutes

November 21, 2017

#### Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, November 21, 2017, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Phil Moffett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Mr. Scott Aubrey, Director, Real Properties; Mr. Ryan Barrow, Executive Director, Office of Financial Management; Ms. Ashley Adams, Financial Analyst, Kentucky Infrastructure Authority; and Mr. Jeremy Ratliff, Deputy Director, Legal Services, Kentucky Housing Corporation.

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

#### Approval of Minutes (October 17, 2017)

A motion was made by Representative Brown to approve the minutes of the October 17, 2017 meeting. The motion was seconded by Senator Carroll and approved by voice vote.

#### Correspondence and Information Items

Ms. Halloran reported two items: the University of Kentucky's intent to use the Construction Management at-Risk project delivery method for the partial renovation of its Chemistry-Physics building and the Cabinet for Economic Development's annual Economic Development Bond (EDB) report, showing projects approved over the prior fiscal year as well as the compliance status of projects approved over the past five fiscal years.

#### Project Report from the University of Kentucky

Ms. Halloran reported two medical equipment purchases for UK Healthcare: a \$233,000 surgical case cart washer and disinfectant for Good Samaritan Hospital and a \$237,300 surgical microscope for A.B. Chandler Hospital.

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

Mr. Aubrey reported two renewals for privately leased office space under the same terms and conditions through June 30, 2019: Unified Prosecutorial System, Jefferson County, \$16.55 per square foot for 24,233 square feet and the Cabinet for Health and Family Services (CHFS), Clark County, \$10.00 per square foot for 10,946 square feet.

Mr. Aubrey reported one lease modification under \$50,000; amortization of improvements through June 30, 2020 for the Department of Corrections in Barren County. Of the two estimates for renovations and security upgrades; low bids were accepted from J.A. Contracting, Barren County Glass, and Chris's Window Tinting. No action was required.

Mr. Aubrey submitted a lease modification over \$50,000; increase in square footage to accommodate additional staff and a two year extension through June 30, 2025 for the Cabinet for Health and Family Services in Kenton County. The modification will increase the total square footage to 57,773 sq. ft., at \$15.45 per sq. ft., resulting in a total annual cost of \$892,582.84.

Mr. Aubrey submitted a tenant improvement request for the 300 Building in Franklin County. The Energy and Environment Cabinet (EEC) asked for power outlets as well as coaxial cables at eye level for wall monitors in seven executive offices. Of the two estimates obtained; one for \$3,575 from inTECHgrated Systems and one \$2,940 from Fayette Electrical Service, EEC recommended acceptance of the lower one. With the management fee, the cost will be \$3,145.80, bringing the total cost of the improvements to date to \$204,259.90.

A motion was made by Representative Rudy to roll the two lease renewals, the lease modification for CHFS (Kenton County), and the tenant improvement request into one roll call vote. The motion was seconded by Senator Carroll and approved by voice vote.

In response to a question from Representative Moffett, Mr. Aubrey confirmed that the term of the CHFS lease in Kenton County is being extended two periods with each period being one year.

A motion was made by Representative Rudy to approve the two lease renewals, the lease modification for CHFS (Kenton County), and the tenant improvement request, seconded by Representative Brown, and approved by unanimous roll call vote.

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

Ms. Adams submitted a loan increase and a new loan request. Due to higher than estimated bids, the Regional Water Resource Agency (RWRA) in Daviess County requested a \$725,000 increase, which was approved by the Kentucky Infrastructure Authority's Executive Director, to a previously approved Fund A (Clean Water State Revolving Fund – CWSRF) loan; increasing the total amount borrowed to \$8,007,500. The loan is for 20 years with a 1.75 percent interest rate.

The Elkhorn Water District in Franklin County, requested a \$850,000 Fund B (Infrastructure Revolving Loan Fund) loan for its Capital Improvements Project, which includes repairs and upgrades for the system. The loan is for 20 years with a 2.75 percent interest rate.

In response to questions from Representative Moffett, Ms. Adams said that Elkhorn Water District went through the Public Service Commission (PSC) for a pass-through rate increase to accommodate wholesale rate increases from its supplier, the Frankfort Plant Board, and will request PSC approval for another rate increase to cover the debt service for the Fund B loan. She confirmed that execution of the assistance agreement would be after PSC approval of the rate increase.

A motion was made by Representative Brown to approve the Fund A Loan increase, seconded by Representative Rudy, and approved

by unanimous roll call vote.

Representative Moffett recommended that approval of Fund B Loan be contingent upon the PSC's approval of the rate increase. A motion was made by Senator Carroll to approve the Fund B Loan, contingent upon the PSC's approval of the rate increase, seconded by Representative Rudy, and approved by unanimous roll call vote.

Mr. Barrow submitted two new Kentucky Housing Corporation (KHC) tax-exempt conduit transactions for approval. As conduit transactions, neither the commonwealth's nor KHC's credit or balance sheet will be extended. The first bond issue is the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Winterwood HPW Portfolio), Series 2018 for properties in Harlan, Lexington, and Manchester. Net proceeds will be about \$9.3 million with a total project cost of just over \$19 million. All debt service is paid by the developer and information about the developer and financing teams were included in the meeting materials.

The second is the KHC Tax-Exempt Conduit Multifamily Housing Revenue Notes (SOCAYR Portfolio), Series 2017 for properties in Adairville, Frankfort, and Louisville. Net proceeds will be about \$13 million with a total project cost of just over \$25.4 million. All debt service is paid by the developer and information about the developer and financing teams were included in the meeting materials.

Mr. Barrow presented two university financings, which will be sold competitively. The first was the \$27.2 million Eastern Kentucky University General Receipts Bonds, 2018 Series A and General Receipts Refunding Bonds, 2018 Series B. Series A will finance the Construct Student Life Facilities project authorized in the most recent budget bill. Series B is an advance refunding with an annual savings of around \$35,000 and a net present savings of \$360,000 (6.32 percent). Mr. Barrow said that the advance refunding portion may be terminated if federal changes to tax law, eliminating tax-exempt advance refundings after December 31, 2017, goes into effect. The refunding would then have to be delayed until it is a current refunding, in which the refunded bonds are called/redeemed within 90 days from the date the refunding bonds are issued.

The second was the \$4.2 million Murray State University General Receipts Refunding Bonds, 2017 Series A, which is also an advance refunding with an annual savings of around \$20,000 and a net present value savings of \$219,000 (5.65 percent).

A motion was made by Senator Humphries to roll the new bond issues into one vote, seconded by Representative Brown, and approved by voice

vote.

A motion was made by Representative Coursey to approve the new bond issues, seconded by Senator Humphries, and approved by unanimous roll call vote.

Mr. Barrow reported a previously approved issue for KHC Tax-Exempt Conduit Multifamily Housing Revenue Notes, Guardian Court Apartments Project, Series 2017. The net proceeds were approximately \$13.3 million. The statutorily required information on the fees associated with the transaction and additional documentation was included in the meeting materials. No action was required.

Mr. Barrow reported five school district bond issues submitted with SFCC debt service participation. Three of those were to finance improvements in the following school districts: Corbin Independent (Knox and Whitley Counties), Monroe County, and West Point Independent (Hardin County). The transactions had an estimated amount to be borrowed totaling \$6.24 million with SFCC participation of approximately 31 percent. No tax increase was necessary to fund the projects. The remaining two bond issues were advance refundings in the following school districts: Fayette County and Owen County. The transactions are estimated to have a net present value savings of \$2.2 million (provided that they are sold before the potential prohibition of tax-exempt advance refundings after December 31, 2017), with SFCC participation of approximately 15 percent.

In response to questions from Senator Humphries, Mr. Ratliff said that the Allied Paducah Portfolio project, the first conduit KHC transaction in which proceeds were used by a 501(c)(3) organization and a payment in lieu of taxes (PILOT) was negotiated with localities as the properties to be acquired will be exempt from property taxes, is expected to close soon and that no similar transactions are expected to be presented to the committee in the near future.

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

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

#### **New School Bond Issues with 100 Percent Locally-Funded Debt Service**

Ms. Halloran reported that the Martin County School District was issuing \$4 million in bonds for an Area Technology Center. Supplemental funding was awarded from the Workforce Development Construction Pool and a tax increase was not necessary to finance the project. No action was required.

#### **Updated Debt Issuance Calendar**



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

With there being no further business the meeting adjourned at 1:17 p.m.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

### **Minutes**

November 15, 2017

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

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, November 15, 2017, at 1:30 PM, in Room 131 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Steve Miller, Commissioner, Jill Hunter, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Deck Decker, Executive Director, Office of Administrative and Technology Services, Cabinet for Health and Family Services; Eric Clark, Chief of Staff, Cabinet for Health and Family Services; Michael Sasko, Vice President of Government Solutions, Softheon Inc.; Chris Heldman, Associate Vice President, Business Development, Molina Healthcare; and Missy Spears, Owner, Keep Your Shirt On Covington.

LRC Staff: Jonathan Scott, Chris Joffrion, Becky Lancaster, and Heather Scott.

#### **Update on the 1115 Kentucky HEALTH Waiver**

Steve Miller, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), stated that the approval of the 1115 Kentucky HEALTH waiver is close. Centers for Medicare and Medicaid Services (CMS) has indicated that it will be approving 1115 waivers that include community engagement. Fourteen months ago, DMS presented the 1115 Kentucky HEALTH Waiver that included community engagement to the U.S. Department of Health & Human Services (HHS). There are no outstanding issues with the waiver and CMS is not asking for additional or clarifying information at this time. DMS is still within the tentative timeframe for initiatives and actions to be taken. In January and February of 2018, Kentucky Medicaid members can begin to earn My Rewards dollars for preventive services. Beginning April 1, 2018, My Rewards and community engagement courses will be available. Starting July 1, 2018, the Alternate Benefits Plan (ABP) and Premium Assistance will be implemented and penalties and suspensions

will be tracked.

In response to questions from Senator Alvarado, Commissioner Miller stated that there is a potential savings of \$300 million if the 1115 Kentucky HEALTH waiver is approved by CMS. CHFS may see savings from the waiver approval in the second year of the budget cycle but savings will be more evident in the third year. He stated that if the 1115 Kentucky HEALTH waiver is not approved, the costs that Medicaid is incurring would remain the same and there are concerns about the sustainability of Medicaid as it is currently structured.

#### **Presentation on Long-Term Care Costs, Enrollment, and Trends**

Jill Hunter, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that \$1 billion is spent on nursing facility services annually using combined state and federal money. An additional \$100 million of combined state and federal money is spent on Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID). During state fiscal year 2017, there were 5,950,698 paid Medicaid days for nursing facility services, averaging to 16,303 residents per day. The occupancy rate is declining, however long-term care (LTC) facilities are seeing sicker patients creating greater costs. It is DMS' goal to allow more people to age at home. LTC facilities create increased costs. DMS works on maximizing community based services, the remaining population in nursing facilities will continue to have an increasing case mix index. DMS staff consulted with 500 individuals at 10 meetings across Kentucky to gather information and hear comments regarding the Home & Community-Based Services (HCBS) 1915(c) waiver redesign.

In response to questions from Senator Alvarado, Commissioner Miller stated that DMS is in constant contact with LTC facilities. The increased costs that LTC facilities are incurring with the sicker population show that the acuity level has gone up and will continue to rise. DMS has tried to keep a base line budget and continues to seek out more efficiencies to lower costs.

In response to questions from Senator Carroll, Deputy Commissioner Hunter stated that DMS has added \$500,000 to the contract and a year to complete the redesign of the 1915(c) waiver program. The schedule for the redesign is to continue to gather comments and information through the fall, have meetings with Navigant to synthesize those comments through the winter and spring with the goal of a having a proposal submitted to CMS in the summer of 2018. DMS has sent letters to community mental health centers asking for assistance in addressing the wait lists for the Michelle P. waiver (MPW) and the Supports for Community Living (SCL)

waiver. DMS is continuing to fill HCBS 1915(c) waiver slots daily.

In response to questions from Senator Alvarado, Commissioner Miller stated that the reimbursement levels for the providers differ in the 1915(c) waiver programs. The 1915(c) waiver redesign should address some inconsistencies but must also be budget neutral. He stated there are federal requirements that determine reimbursement rates for the CMHCs. Deputy Commissioner Hunter stated that it is difficult to predict if LTC facility admissions will continue to decline. She stated that DMS has seen a trend in people wanting to age in their homes but has also noticed that younger people are entering LTC facilities for reasons not planned on by DMS. Commissioner Miller expects to have a number of options and recommendations from Navigant and the redesign to contain costs for the new budget cycle.

#### **Update on Benefind**

Deck Decker, Executive Director, Office of Administrative and Technology Services, Cabinet for Health and Family Services, stated that the Benefind solution or Integrated Eligibility and Enrollment System (IEES) provides Medicaid benefits to over 1.4 million residents of Kentucky. Benefind processes over 1 billion dollars in Supplemental Nutrition Assistance Program (SNAP) and Kentucky Transitional Assistance Program (K-TAP) benefits every year. The child care assistance program has been added to Benefind. CHFS workers are maintaining caseloads on Benefind. CHFS has eliminated the 45 minute annual recertification interview with an enhancement for an automated process that verifies Medicaid recipients' information during their annual recertification using federal and state data sources. Benefind allows case workers to focus on better customer service and reducing fraud and waste in public assistance programs.

The Department for Community Based Services (DCBS) has eliminated the mandatory 10 percent overtime for staff. Benefind processing time is averaging less than three days for tasks to be completed through the system. The cost savings to Kentucky is approximately \$9 million a year due to the productivity improvements. Benefind systems have improved self-service capabilities to allow Kentuckians easier compliance with program requirements. The Medicaid Management Information system (MMIS), the payment system for Medicaid, has been improved. CHFS has achieved a reduction in provider billing issues and complaints after implementing a series of enhancements streamlining Medicaid data across CHFS systems. Starting on October 1, 2017, the Child Care Assistance Program was incorporated into the Benefind system. In the first month, 3,810 new child care applications were processed at a



rate seven times greater than the average of 500 applications prior to Benefind.

Integrated and automated verifications have reduced the instances of overpayments and issuance of incorrect benefits to members. Kentucky transitioned to the Federal Facilitated Marketplace (FFM) via HealthCare.gov to process Qualified Health Plans (QHPs) and Advanced Premium Tax Credits (APTC) eligibility. Federal guidelines provide 45 days to process Medicaid applications. Kentucky internally tracks progress based on a 30 day schedule from program application. All complaints are inputted by a citizen, DCBS staff, Ombudsman or other CHFS staff and tracked in one location. CHFS has implemented a comprehensive integrated complaint resolution solution that allows Kentuckians to raise concerns and seek issue resolution.

In response to questions from Representative Gibbons Prunty, Eric Clark, Chief of Staff, Cabinet for Health and Family Services, stated that there is a moratorium on Kinship Care that stopped additional individuals from entering the program but those individuals who were previously in the program are still receiving payments.

In response to questions from Senator Alvarado, Mr. Decker stated that CHFS has saved approximately \$20 million not using Kentucky's state exchange system.

In response to questions from Senator Meredith, Commissioner Miller stated that money saved goes to other departments in CHFS to help balance the Cabinet's budget.

#### **Adjournment**

There being no further business, the meeting was adjourned at 2:13 PM.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes of the 9th Meeting**

of the 2017 Interim

November 2, 2017

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

The 9th meeting of the Public Pension Oversight Board was held on Thursday, November 2, 2017, 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 Brian Linder, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Gerald A. Neal, Dennis Parrett, and Wil Schroder; Representatives Ken Fleming, James Kay, Jerry T. Miller, Arnold Simpson, and Russell Webber; J. Michael Brown, John Chilton, Mike Harmon, James M. "Mac" Jefferson, and Sharon Mattingly.

Guests: John Chilton, State Budget Director;

Mark Bunning, Deputy Secretary, Finance and Administration Cabinet

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

#### **Approval of Minutes**

Representative Simpson moved that the minutes of the September 25, 2017, meeting be approved. Mac Jefferson seconded the motion, and the minutes were approved without objection upon the addition of a conversation between Senator Schroder and Beau Barnes.

A moment of silence was observed for the passing of Senator David Givens wife, Lynne Givens.

In his opening remarks, Senator Bowen stated that Director John Chilton will be presenting a bill draft and questions should be directed to him and his staff. Senator Bowen reminded the members that it was outside the responsibility of LRC staff to participate in a question and answer exercise when talking about a bill draft.

#### **Pension Proposal Overview**

John Chilton, State Budget Director and Mark Bunning, Deputy Secretary, Finance and Administration Cabinet presented. Mr. Chilton opened with a general overview of the presentation and bill draft, which Governor Bevin has named "Keeping the Promise." Mr. Chilton began by defining two key terms, retirement age and solvency, as it relates to the proposed bill. Retirement age is defined as the age at which an employee is eligible for unreduced or full retirement benefits, but not the time at which an employee must retire or is encouraged to do so. Solvency relates to the ability of an organization to pay all outstanding debts and can be viewed from two perspectives. An organization is insolvent: (1) if it does not have enough liquid assets to meet near-term obligations or (2) if the value of its assets is less than its liabilities. Mr. Chilton noted that each of the state-administered pension plans had a value of assets less than their liabilities and that current funding levels for each would require termination of the plans under federal rules that apply to non-government plans.

Mr. Chilton provided an overview of the severe underfunding of the plans and noted that Kentucky's aggregate funding level of 37.4 percent ranked last, or 50<sup>th</sup>, out of state retirement plans, and the total unfunded liability ranged from \$33 billion to \$84 billion depending on the discount rates utilized. In addition to funding levels, Mr. Chilton recognized the cash flow trends for each of the plans, which include almost \$7 billion in negative cash flow across all the plans over a period of eleven years. Mr. Chilton stated that the negative cash flows are projected for the next eleven years as well.

Mr. Chilton discussed reasons why the plans are underfunded and highlighted findings from

the performance audit conducted by the PFM Group (PFM). The underfunding has been the combined result of investments performance, funding, and structural issues of the plans. Mr. Chilton noted that 62 percent of the increase in underfunding was due to structural issues, such as assumption changes or actuarial back loading, while investment performance and funding accounted for 23 percent and 15 percent, respectively. Mr. Chilton provided a summary for each underlying system, pointing out the KERS nonhazardous and TRS plans, which made up two-thirds of the total underfunding. Lastly, Mr. Chilton highlighted the CERS plans, which made the necessary contributions, but still saw funding levels decline. Mr. Chilton discussed retiree healthcare and stated that it was about \$6 billion underfunded.

Mr. Chilton provided an illustration of actuarial back-loading, and pointed out how additional underfunding can occur as a result of plans using a percentage of payroll method. Referencing projections included in the PFM report regarding the KERS nonhazardous plan, Mr. Chilton noted how underfunding actually would increase for several years before actually reducing the unfunded amount.

Mr. Chilton also provided a summary of a solvency analysis for the KERS nonhazardous conducted by PFM, which projected the plan would go insolvent in FY2022 if future funding reverted to the patterns of funding prior to FY2016.

Mr. Chilton discussed the TRS and CERS nonhazardous plans and emphasized the plans are not in as good of shape as many seem to believe. While better funded than KERS, if subject to federal standards, the Internal Revenue Code would require benefits in both plans to be frozen. Using the investment assumption required for corporate plans, which is the Corporate Bond Index, Mr. Chilton noted the unfunded liabilities for both plans would increase significantly. Regardless, under any set of assumptions, neither of the plans are in good shape and a long-term (30 year) commitment will be needed to address the underfunding.

Mr. Chilton reviewed details of the proposed pension plan introduced by the Governor, Senate President, and Speaker of the House, clarifying proposed changes for each system. With regards to the nonhazardous plans of KERS and CERS, retirees would see no changes or reductions to their monthly pension checks. For existing Tier 1 or Tier 2 members, there would be no change to the full retirement age and employees would continue to accrue their defined benefit until reaching a full, unreduced, retirement benefit (reaching 27 years of service, Rule of 87, or age 65). Once reaching the threshold for an unreduced benefit, Tier 1 and Tier 2 employees

would move into a new defined contribution plan. Any existing Tier 3 member (those hired on or after January 1, 2014) and all new hires would immediately roll over or be enrolled in the new defined contribution plan.

In response to questions from Representative Simpson and Senator Bowen, Mr. Chilton stated that any current service, benefit, or accrual that a member has as of the effective date of the proposed legislative changes would be secure. Any additional service for the member after that date would go into the defined contribution plan. Also, any years of service that a member has purchased or is purchasing on an installment basis would be secure.

In response to a questions from Senator Higdon, Mr. Chilton stated that the retiree healthcare is funded separately from the pension plans, in a separate trust, with a separate employer contribution rate. This plan covers retiree healthcare costs from the date of retirement until the retiree qualifies for Medicare, after which there are some subsidies provided for items not covered by Medicare. Current Tier 2 and Tier 3 employees also contribute one percent of payroll, while the proposed bill would require all active employees (Tiers 1, 2, and 3) to contribute 3 additional percent towards retiree health benefits. Mr. Chilton noted there had been much discussion regarding the proposed increased contribution, and the topic was something likely requiring more consideration.

In response to a question from Mr. Brown, Mr. Chilton clarified that the benefits promised under current law for Tier 1 and Tier 2 employees, either as of June 30, 2018 or up to 27 years of service, would be secure. Mr. Chilton said on a go-forward basis, there might be changes, but that would not impact existing accruals or those accrued up to 27 years.

In response to a question from Auditor Harmon, Senator Bowen clarified that any service credit purchased is effectively the same as accrued service time, so both would be considered in the purpose of calculating the member's retirement benefit.

Representative Kay commented regarding the plans underfunding and the reasons outlined by the final PFM report. He noted that investment performance, which accounted for roughly 25 percent of the increase, included underperformance relative to the market and expensive investments with a lot of fees. Outside of investments, whether funding below the ARC, providing unfunded COLA increases, or mandating a level percent of payroll funding method by statute, Mr. Kay pointed out that at least 50 percent, if not more, of the problem could be directly attributed to what the legislature has or has not done.

In response to Representative Kay's

comment, Mr. Chilton mentioned that investment performance and the underfunding have historically been more discussed because they are the most visible. Mr. Chilton agreed that the other structural issues had been in the statute for a long period of time and largely not been the focus. Mr. Bunning also referenced the CERS plans, which have made their required contributions, but still are underfunded by 40 percent, to highlight the impact other structural issues have had on funding.

Senator Bowen made a statement to remind the members of the Public Pension Oversight Board (PPOB) that most of the funding provisions and policies for TRS are not in statute. It is a decision by TRS Board.

Mr. Chilton continued with a review of a few additional proposed changes for nonhazardous employees. First, all active employees would be required to contribute 3 percent more of their salary to help prefund the retiree healthcare program. Secondly, any future retiree, that accepts a full-time position in the public, would be required to suspend their current pension for the duration of their reemployment. Third, compensatory time payments only would be included in the benefit calculation for any member retiring on or before July 1, 2023. Fourth, a full 60 months of service would be required in calculating a members "high 5" average salary. Fifth, eligible compensation for the purpose of calculating benefits would be limited to match that of Social Security. Lastly, any uniform or equipment allowances would no longer be included as creditable compensation, and any unused sick leave would be frozen as July 1, 2018 for the purpose of determining retirement eligibility.

Mr. Chilton reviewed the new Defined Contribution Plan being proposed and outlined mandatory and optional contributions. All employees participating would contribute a mandatory contribution of 3 percent of their salary, while employers were required to make a 2 percent contribution. In addition, employees could choose to contribute an optional amount up to 6 percent more of their salary, which would be matched 50 percent by their employer. A total of 14 percent could be saved if the employee maximized their contributions (9 percent employee and 5 percent employer).

Mr. Chilton moved on to review the proposal regarding TRS and stated that there was no recommendation to change the full retirement age, and both current and future teachers would not be covered by Social Security. The current defined benefit plan would remain open for all current members of TRS, who would continue to accrue benefits until they qualified for a full, unreduced, benefit (27 years of service or age 60). A current member, that qualified for a full benefit

on July 1, 2018, would have the option to accrue up to 3 additional years of service or move into an enhanced Social Security replacement defined contribution plan that would save 18 percent of their salary. New teachers, or those active that meet the unreduced retirement threshold after July 1, 2018, would be enrolled in a new defined contribution plan. All current members, with less than five years of service, would have the option to transfer to the newly created defined contribution plan. In addition, future retirees would be required to suspend their pension to accept full-time positions covered by a state-administered retirement system for duration of their reemployment.

Mr. Chilton provided a review of the new Defined Contribution Plan being proposed and outlined mandatory and optional contributions for TRS members. First, all new teachers and active teachers, that reach the 27 year threshold after July 2018, will make a mandatory contribution of 9 percent of their salary, while the state would be required to contribute 4 percent and school districts would be required to contribute 2 percent. In addition, employees could choose to contribute an optional amount up to 3 percent more of their salary. A total of 18 percent could be saved if the employee maximized their contributions (12 percent employee and 6 percent employer/school district). For teachers with 27 plus years on or before July 1, 2018, the employee would have a mandatory 10 percent contribution and the state would be required to contribute 8 percent.

Mr. Chilton continued with a review of a few additional proposed changes for TRS members. First, sick leave balances would be frozen as of July 1, 2018, for those university members that receive service credit for accumulated unused sick leave. Secondly, school districts could continue to provide payment for up to 30 percent of a retiring member's accumulated unused sick leave, and lump-sum payments for accumulated sick leave will be utilized in retirement benefit calculations only for those retiring on or before July 1, 2023. After that date, all payments for sick leave would be excluded from benefit calculations. Sick leave policies and cash payments for sick time will continue to be made according to local school board policy. Third, the use of a "high 3" average salary would be permitted for members retiring before 2023, while after that date a "high 5" would be utilized and must include 60 full months. Lastly, much like the KERS and CERS plans, all active employees would contribute an additional 3 percent of their salary to fund the retiree post-retirement healthcare program.

Regarding retired teachers, Mr. Chilton stated that current retirees would not see their existing benefit reduced; however, future COLA adjustments would be temporarily suspended



for five years. All future retirees would not receive any COLA increases until their sixth year of retirement.

In response to a question from Representative Miller, Mr. Chilton stated that teachers have not paid for their COLAs.

In response to a question from Representative Kay, regarding an exemption to the proposed suspension of retirement benefits for elected officials and the Governor's appointees, Mr. Chilton reiterated that he could neither speak to the motivation for the exemption nor was he involved in the decision-making process. Representative Kay suggested that this portion of the bill should be considered as changes are made.

Auditor Harmon suggested a few additional items for consideration. First, regarding the suspension of pensions for those returning to work, given a retiree would suspend existing benefits and not double dip, it seems that suspending the required break in service should be considered. Secondly, he asked for consideration regarding the "block 50" payments for compensatory time. Mr. Harmon mentioned the use of "sick 50" payments in his office, but given sick time will not be utilized in the same way, this might not be an option and could have impact. Senator McDaniel commented that there are several agencies that practice the "sick 50" payments, but one of the unfortunate consequences is it actually allows an agency to defer the fiscal burden of payment to the retirement system instead of the agency.

In response to a question from Mr. Brown regarding the topic of the retired re-employed, Senator Bowen reminded the committee that questions and comments should be limited to points of clarification, but not the rational or motivation behind the proposed legislation. The Director was on hand to help clarify and answer technical questions.

Mr. Chilton continued the overview, addressing proposed changes for the hazardous plan members. For active members, the current defined benefit and 4 percent cash balance plans would remain open, and there would be no change to the full retirement age. New hires would have an option to participate in the current cash balance plan or the defined contribution plan. Other proposed changes included: capping sick leaves at the balances accrued on June 30, 2018, and eliminating sick leave from being used to determine retirement eligibility for retirements after July 1, 2018; requiring a full 36 months in the "high 3" calculation; removing uniform and equipment allowance from creditable compensation; and requiring both the employee and employer to contribute to the retirement system in the case of reemployment after retirement with no second

retirement account for any retiree re-employed. Lastly, all active hazardous employees would be required to contribute an additional 3 percent of their salary to fund the retiree post-retirement healthcare program.

Mr. Chilton discussed the proposed retirement changes for legislators. For members that have already reached an unreduced pension benefit, the defined benefit plan will be closed, and those members will begin to participate in the defined contribution plan offered to KERS employees. For members that have not reached the threshold for an unreduced retirement plan, their LRP account will be frozen, and they will participate in KERS until reaching an unreduced retirement benefit and then will be covered by the new defined contribution plan. Any payments from the defined benefit plans would be based solely on their legislative earnings. Current cash balance members and new legislators would immediately roll over into the defined contribution program. All active members would contribute 3 additional percent of their salary to fund retiree healthcare. For existing defined benefit members and current retirees, the benefit calculation would be based solely on legislative salary.

Mr. Chilton discussed the judicial retirement proposal, which would allow current members to accrue a full unreduced benefit, before moving into the new defined contribution plan. Existing cash balance and new members would immediately roll into the defined contribution plan. All active members would contribute 3 additional percent of their salary to fund retiree healthcare.

Mr. Chilton discussed several additional reforms, which include: moving all systems to a level dollar amortization method; creating a two-year window available for KRS and TRS employers to withdraw from the systems by making a full payment of their share of the actuarial liability; and moving the legislative and judicial retirement plans under the jurisdiction of KRS Board. Lastly, Mr. Chilton noted the effective date of the changes would be July 1, 2018 (pension bill will not have an emergency clause), the Kentucky Deferred Compensation Authority (KDC) would administer the new defined contribution plan (called "PERS" under the draft), and there would be a statutory requirement to pay the ADC/ARC.

In response to a question from Senator Parrett, Mr. Chilton stated that all Tier 3 member account values, which include employee contributions, employer contributions, and investment gains, will move over to their new defined contribution account.

In response to a question from Representative Kay in regards to PERS and Deferred Comp transparency and those entities being exempt

from procurement procedures, Mr. Chilton stated that PERS would be subject to the PPOB, Executive Branch Ethics Commission, and also statutory conflict of interest language. As it relates to the Model Procurement Code, the plans are not covered because it is not necessary. Mr. Chilton noted that once the Board determines their investment options, there is no procurement process and pricing is set by the market. Representative Kay emphasized that measures should be taken to ensure more robust transparency safeguards are incorporated into any legislation to ensure that procurement and the board's actions do not benefit those underserving of making money off the government.

In response to a question from Senator Bowen, Mr. Chilton and Mr. Bunning stated any member that had reached the full retirement threshold would continue in the defined benefit plan through the effective date of the bill. At that point, whatever service credit they had would be utilized for calculating their benefit. For a member that reaches 27 years after the effective date, they can continue working, but would begin participating in the defined contribution plan the month after reaching the threshold.

Senator Schroder highlighted the potential that active teachers might reach the full retirement threshold during the middle of a school year and suggested consideration might be made to allow teachers to finish the year instead of participating in the defined contribution plan for such a short period. Mr. Bunning noted that all existing teachers with 27 years of service would have a 3 year window from the effective date.

In response to a question from Representative Fleming, Mr. Chilton stated that while the proposed legislation was just a draft at this point, as part of the legislative process there is a statutory requirement for an actuarial analysis. Mr. Chilton indicated that analysis was in process and expected soon.

Mr. Chilton continued with what happens if pension reform does not occur and the impact it will have on the budget. First, he reviewed investment return assumptions for each system and noted that almost all had reduced their assumption, which was going to increase the unfunded liabilities of the plan. Preliminary projections provided by the plans indicated that almost \$1.5 billion in additional money from all employers would be needed. Mr. Chilton discussed the fiscal needs of the general fund, which included replenishing a diminished Budget Reserve Trust fund and meeting expected ARC payments. These needs, when coupled with modest expected revenue growth, results in a need to free up an additional \$1 billion dollars each of the next two fiscal years to be fiscally responsible.

Mr. Chilton identified the three primary options available: reducing spending, increasing revenues, and reducing the cost of pensions. With regards to reduced spending, Mr. Chilton noted that spending for several programs was reduced by 9 percent during the last budget. During that process, there were important government services that were not subjected to cuts, including K-12 education (SEEK), Medicaid, public protection, debt service, etc. Mr. Chilton discussed the growing share of pension and Medicaid expenditures, which account for over 30% of the general fund, and their rapid growth over the past eleven years. Mr. Chilton provided an alternative look on the budget constraint, considering what level of cuts would be required in FY2018 to raise \$1 billion. In this example, if excluding education, Medicaid and pension spending, the remaining portion of the budget would have to be reduced by 34 percent. Subjecting education (SEEK) to cuts would still require cuts of over 16 percent. SEEK alone would be reduced by \$510 million (out of existing \$3.024 billion appropriation).

Senator McDaniel emphasized another important consideration, which was the level of additional funds pulled from federal draw down dollars. He noted that the majority of federal funds occur with the "all other" category that is being discussed. Reducing these funds by 34 percent would not just mean losing the existing state spending, but also the federal matches that are made available.

Mr. Chilton commented that the budget situation is a real crisis. The financial obligations the Commonwealth is facing are huge and there are some really tough policy decisions that will have to be made in all areas.

Senator Bowen commented about the question of whether the plans were in crisis or not. While people might argue about this question, he asked members to consider a plan with two people, which is only 54 percent funded. Under such a scenario, one of the two would not receive a pension and that would be considered a crisis for the person not receiving a pension. When talking about levels of funding at 54 percent, 59 percent, 33 percent, and 14 percent, these funding levels by any metric are failing numbers.

Mr. Chilton discussed benefits and the value of a defined contribution plan. First, the employee controls his/her investments and can be as conservative or as aggressive as desirable. Secondly, after vesting (5 years), the entire account is nonforfeitable and will continue to grow. Third, money can be withdrawn without IRS penalties as regular monthly amounts or as a lump-sum to satisfy unexpected needs or desires. And last, when the employee dies, the account passes to family members or a charity.

Mr. Bunning provided an example of the value of a defined contribution account. Using a current teacher salary scale, an average retirement age of 60, and career of 37 years, a teacher under the current defined benefit plan would receive a monthly benefit of \$5,400. Using the defined contribution model, considering the teacher contributed the maximum 18 percent contribution and earns 7.5 percent while employed, the value of the account after 37 years would be \$1.59 million.

In response to a question from Representative Kay regarding the value of the example if the 30 year Treasury yield of just under 3 percent was assumed, Mr. Bunning stated this was an example to compare the two plans together. In this case, the teachers assume 7.5 percent. In addition, Mr. Bunning referenced the investment options currently offered by Deferred Comp and noted most have returns of 7.5 percent or more.

In response to a question from Senator Parrett regarding tax reform, Mr. Chilton stated the Governor and others have decided that tax reform is coming, but not before pension reform.

In response to a question from Senator Neal, Mr. Chilton stated the actuarial analysis is in process and should be available soon. While the proposed bill was not developed with a certain target, it is believed that the \$700 million additional amount required will be less. Mr. Bunning also stated that PFM provided an impact for each of their recommendations, but the bill is drafted differently so its impact must be calculated actuarially.

In response to a question from Senator Neal regarding the risk associated with a defined contribution approach versus a defined benefit approach, Mr. Bunning commented that it would depend on the individual participant. Some people like the flexibility and ability to make personal investment choices, instead of relying on a board. Senator Neal emphasized that not all state employees have the background or ability regarding investing, so one of the criticisms of defined contribution plans can be the level of risk placed on the individual.

In response to Senator Neal, Mr. Chilton commented that one of the requirements in the defined contribution plan was that the plan administrator provide underlying members with professional licensed investment advisors to help people make investment decisions.

In his closing remarks Senator Bowen mentioned a few of the highlighted portions of the presentation and suggested the board had learned the consequences of doing nothing. He highlighted there was no emergency clause in the bill, giving people plenty of time to make decisions, and it also allowed current employees to stay in the plan until retirement eligibility.

Lastly, there is no claw back of benefits suggested, and the bill draft provides for sharing the risk.

With no further business, the meeting was adjourned.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

### **Minutes**

November 21, 2017

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

The regular meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, November 21, 2017, at 1:02 p.m., in Room 129 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Daniel Elliott, Co-Chair; Senator Mike Wilson; Representatives Derrick Graham, and Steve Riley.

Guests: Wayne Young, Executive Director, Kentucky Association of School Administrators.

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

#### **Approval of October 17, 2017 Minutes**

Representative Graham made a motion to approve the minutes of the October 17, 2017 meeting, seconded by Senator Wise. The motion passed by voice vote.

Chairman Elliot recognized David Wickersham, Director, Office of Education Accountability (OEA) to speak regarding the retirement of Tammy Daniel. Ms. Daniel has just over 30 years of service with state government, and has served with OEA since 1992. Mr. Wickersham noted how instrumental she has been to the Investigations Division of OEA and how helpful she was when he took the position of director. Chairman Elliot, speaking on behalf of all the members of the committee, thanked Ms. Daniel for her service and wished her well in retirement.

#### **Approval of the 2018 Research Agenda**

Chairman Elliot directed members' attention to the proposed 2018 Research Agenda for OEA that was included in their folders, together with memo outlining agenda topics. David Wickersham, Director, OEA, and Dr. Bart Liguori, Research Division Director, OEA, were present to answer any questions.

There being no questions, Senator Wise made a motion to approve the proposed agenda, seconded by Representative Riley. The motion passed by voice vote.

Chairman Elliot informed members that they would be notified of the next meeting when it was scheduled, but that a January



meeting was likely for reviewing administrative regulations containing the new assessment and accountability system. With no further business to come before the committee, the meeting was adjourned at 1:07 p.m.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes**

#### **2017 Interim**

November 9, 2017

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

The Program Review and Investigations Committee met on Thursday, November 9, 2017, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order and led the audience in a prayer and the Pledge of Allegiance. The secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Dan “Malano” Seum, Reginald Thomas, and Stephen West; Representatives Chris Fugate, Ruth Ann Palumbo, Rob Rothenburger, Arnold Simpson, and Walker Thomas.

Guests: Adria Johnson, Commissioner, Elizabeth Caywood, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services; Kelly Stephens, Manager, Court Services, Administrative Office of the Courts; and Patricia Walker-FitzGerald, Retired Jefferson County Family Court Judge.

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

#### **Minutes for October 12, 2017**

Upon motion by Representative Simpson and second by Representative Rothenburger, the minutes for October 12, 2017, were approved by voice vote.

#### **Staff Report: Kentucky’s Foster Care System**

Mr. Hall noted that as of September 2017 there were nearly 8,500 children in Kentucky’s foster care system, which is administered by the Department for Community Based Services (DCBS). Most children enter the system when an investigator substantiates claims of dependency, neglect, or abuse, and files a court petition to remove the child. He described the steps in the court proceedings for such cases, which include a temporary custody order, which can give custody of the child to the cabinet for 45 days, and a dispositional hearing, at which the court determines what action to take. If the court orders the child to remain in state custody at the conclusion of the dispositional hearing,

the case remains open and is reviewed after 6 months. A permanency review is held every 12 months thereafter. Program Review staff heard from several sources that the 45-day period for the temporary custody order is often not long enough. Recommendation 1.1 is that DCBS and the Administrative Office of the Courts (AOC) should cooperate to determine a reasonable period for the temporary custody order and propose legislation to the General Assembly.

DCBS and AOC were unable to provide reliable data that would allow for an analysis of whether foster care hearings were meeting the statutory time frame. Recommendation 1.2 is that they should cooperate to ensure the collection of the date of any foster care court action, the type of hearing, and the result. These data should be analyzed regularly to identify potential problems. Recommendation 1.3 is that AOC should encourage any court hearing foster care cases to use all appropriate AOC forms.

DCBS publishes a monthly Diligent Recruitment Report, which is used to help regional and county DCBS officials recruit new foster families. A calculation in the report is potentially inaccurate. Recommendation 1.4 is that DCBS should use existing data to calculate a more accurate “percent of need met” figure in the report.

DCBS reports the average number of times foster children moved while in state custody. Over the period of time analyzed, more than half of the moves were either neutral or represented progress. Recommendation 1.5 is that DCBS should indicate disruptive, neutral, and positive reasons for placement changes in its reports.

The most frequent reasons children left the foster care system last year were to be reunited with their families (35 percent), placed in permanent custody of a relative (28 percent, or adopted (24 percent).

Ms. Kennedy said that court proceedings consist of three broad steps: terminating parental rights; establishing adoption as the permanency goal, and ruling on a petition for adoption. An order for termination of parental rights may be appealed, resulting in long delays in an adoption. Neither AOC nor DCBS tracks all delays in the adoption process. DCBS plans to document court proceedings when its computer system upgrades at the end of 2017.

Potential adoptive parents may file a petition to adopt if they are Kentucky residents or have lived in Kentucky at least 12 consecutive months, are at least 21 years old, and have sufficient income to meet household expenses.

From 2012 to 2016, the number of Kentucky children foster available for adoption increased each year except one. Over this period, 2,257 children were adopted. The percentage of adoptable children carried over from the

previous year ranged from 55 percent in 2013 to 39.5 percent in 2015.

Mr. Stevens noted that from 2011 to 2015 the number of children living in foster care increased by nearly 8 percent nationally. As of July 2017, there were more than 8,500 children in Kentucky’s foster care system, which represents a nearly 25 percent increase since 2011. Over this period, the number of caseworkers assigned to these children increased by only 7 percent, which has resulted in unmanageable caseloads and could lead to jeopardizing agency funding, an increase in employee turnover, class action litigation, and negative outcomes for children and their families.

The Child Welfare League of America recommends a caseload of no more than 12 cases; the Council on Accreditation recommends no more than 15. DCBS reports that they are currently targeting a statewide caseload average of 18 cases. As of May 2017, Kentucky caseloads were reported to be 32.

DCBS recently changed how it calculates caseloads. The new method includes past due cases and but not noncapacity staff. The new method results in higher statewide caseload averages overall. This new method could be improved. Recommendation 3.1 is that DCBS should develop a method for calculating or estimating the number of cases assigned to staff not currently carrying full caseloads and the contributions of such staff to state, regional, and county workloads. The workloads of these staff should be included in the calculations of average caseloads along with past due cases.

Caseloads vary significantly across regions in Kentucky, but all regions reported averages above 18. Only 14 counties met national standards and only 24 met DCBS’s target. Recommendation 3.2 is that the General Assembly may wish to consider revising KRS 199.461 to require reporting of monthly regional and county caseload averages in addition to monthly statewide caseload averages.

In order to reduce statewide caseload averages to the current DCBS target of 18, 420 additional caseworkers would need to be hired. Bringing Kentucky’s caseload average in line with the Council on Accreditation would require 731 new caseworkers. Bringing averages in line with the Child Welfare League of America would require nearly 1,200 new caseworkers, more than twice the current staffing level.

Program Review staff surveyed Kentucky’s child welfare caseworkers. Ninety-five percent of respondents reported that their caseloads were currently unmanageable within a normal work week. Respondents listed documenting work and entering case information into computer systems as two of their most time-consuming tasks. Recommendation 3.3 is that DCBS should

develop a strategy to lessen the administrative burden of caseworkers so that they can spend more time working with foster children and their families.

Recommendation 3.4 is that DCBS should develop a method for determining caseloads that is based on an analysis of its workforce and workloads. This information should be used to determine what the appropriate caseload standard for Kentucky child welfare caseworkers should be and the strategies needed in order to meet this standard. The standard that is developed should be aligned with the principles established by current national standards and should focus on ensuring that as few child welfare caseworkers as possible are assigned caseloads that exceed the standard.

Mr. Knowles noted that turnover is a challenge for most state child welfare agencies. Kentucky's caseworker turnover peaked at 28 percent in 2015. A rate of 25 percent means that an average caseworker stays on the job for 4 years and is fully productive for only 3 years. Turnover reduces the overall level of experience and causes frequent vacancies, increasing workloads and stress and leading to lower quality of work and poorer outcomes for children. Most caseworker turnover was a result of individuals leaving DCBS for another agency or for the private sector. Dissatisfaction with salaries is one reason. Higher demand for social workers in some parts of the state results in a greater salary gap.

Several improvements could help offset dissatisfaction with salaries. These include advancement opportunities, involvement in setting policies, recognition of caseworkers' dedication and hard work, and ways to deal with the emotional trauma of seeing neglect and abuse. DCBS reported that some employee recognition programs and other measures had been curtailed for lack of funds.

For several years, entry-level caseworker job applications were always accepted whether there were openings or not. Attempting to address some problems, the Personnel Cabinet began to advertise entry-level caseworker jobs as they came open, but with an expedited hiring process. Neither the Personnel Cabinet nor DCBS was able to provide information on how long it took to fill vacancies.

The Public Child Welfare Certification Program pays tuition and a stipend for social work juniors and seniors who agree to work 2 years for DCBS after graduation. While in school, they receive the same training as new caseworkers and work as interns at DCBS. However, enrollment has been below expectations for a variety of reasons.

There is some evidence that there just are not enough social workers with bachelor's degrees to meet the demand in the private and public

sectors.

Recommendation 3.5 is that DCBS should request funding and authorization to increase caseworker salaries to a competitive level; to increase the number of caseworkers; to offer geographic salary differentials and flexible scheduling; to expand employee recruitment, development, and recognition programs; and to develop further improvements in the hiring process. The agency should also promote expansion of undergraduate social work programs.

In response to questions from Representative Rothenburger, Mr. Stevens said increasing the number of support staff and improving technology would help lessen the burden on caseworkers. More than 51 percent of caseworkers said they are unable to complete their caseloads even by working more than the standard 37.5 hours a week.

Representative Rothenburger commented that those who work in DCBS are stressed and overworked. The recommendations in this study are to be commended.

In response to questions from Representative Palumbo, Ms. Kennedy said the sufficient income requirement to adopt a child refers to having the means to cover household expenses like food and clothing. If a child has special needs, state funding is available. Federal funding is available under Title 4E. Program Review staff did not know of a required baseline income, but DCBS may be able to provide more information. Mr. Stevens said overtime begins after 37.5 hours have been worked in 1 week.

In response to a question from Senator Carroll, Ms. Kennedy said many of the delays in the adoption process occur in the court system. Often, biological parents participate in substance abuse treatment plans, experience setbacks, and return to treatment. Many adoptions are determined on a case-by-case basis. Mr. Stevens said according to the study survey, caseworkers reported the adoption process was too complicated and time consuming. Mr. Hall said that there was not enough information or data to determine where improvement to the process was needed.

In response to questions from Representative Bechler, Mr. Stevens said the slide referring to the number of children in foster care and the number of caseworkers shows the data for Kentucky only. Mr. Hall said DCBS may know the percentage of children who are initially reunited with their families and subsequently removed. AOC developed the forms mentioned in Recommendation 1.3. The Court Rules document, which was recently changed by the Kentucky Supreme Court, does not require that AOC forms be completed but does require all the information on the forms be provided. By

law, a decision must be made in the child's best interest regarding placement. Reunification is the primary goal according to department policy.

Representative Bechler commented that in many cases, he understands why reunification is the primary goal, but it is troubling that the primary goal is not stated as what is in the best interest of the child. This often leads to adoption cases that last 7 to 10 years. Ms. Kennedy clarified that the standard in law says that what is in the best interest of the child is the goal.

Ms. Johnson said that this was the first review of this nature of the agency and the system in 11 years. The report reinforces much of the work and internal review that the cabinet has been doing. The reviews and recommendations align with the charge from Governor Bevin and First Lady Bevin, who want to reform the foster care system to be a model for the nation.

The report has three themes: closer alignment with the courts and looking at how the agency is faring in achieving permanency outcomes for children, reviewing data, and being more transparent. The cabinet is very receptive to continuing to work with the courts to look at policies and to work on legislation that may be needed. Currently, the cabinet partners with the courts in many ways. There is a bimonthly meeting with the Chief Justice and cabinet secretary about the outcomes being reported for children in care, what is happening in the court process, and DCBS practices. It is a collaborative process to develop a performance improvement plan and response to the required periodic child and family services review. The courts also help the cabinet look at how children and families are being served in the system and what should be done to improve outcomes. Kentucky was one of a few states chosen for a three branch institute. The state interagency council is a multidisciplinary group that addresses issues that children face in Kentucky. The issues that have been presented in this report have been discussed at length with the courts.

The cabinet continues to refine the new methodology that was put in place to capture caseload numbers to be even more accurate. These data are currently available by county and region. The statewide report is used as a management tool by the regions for staffing issues. Workforce stabilization and support is a top priority as it impacts all outcomes within the foster care system. The cabinet revamped performance evaluation criteria for staff so that they are being more fairly evaluated on performance sensitive to their caseloads. The cabinet supports Recommendation 3.1 on the Diligent Recruitment Report and will work to refine the calculation method. The cabinet has worked hard to determine which supports are needed for foster families, including refining



and expediting the process to become a foster parent. Work to streamline and improve the initial training requirements is underway. The DCBS management team has become very data driven. It has developed key performance indicators across all divisions and is developing ways to track retention. The cabinet continues to partner with Pastor DeForest Soaries Jr., keynote speaker at the Open Hearts, Open Homes event, to help recruit families. The cabinet has started sharing its diligent recruitment report with the contracted private childcare and placing agencies, which will allow them to be more effective at recruiting families.

The cabinet is developing its budgetary request, which will include a segment for workforce. Some of the recommendations in the report are already being addressed, such as staff workload and developing a more efficient process. The cabinet's chief information officer and the executive director of Administration and Technology Services and his team are exploring software and workforce solutions to help staff in doing their jobs. An RFP should be issued soon for software to allow field staff to gather information more effectively. By December, each region should have a rapid response team to address caseload concerns. The cabinet has met with a group of county attorneys to reinforce the best practice methodology across the state. In some areas, workers have a strong relationship with the county attorney. Alternative work schedules in some areas are being considered to attract and retain staff and reduce the need for overtime. Retired law enforcement officers have been hired for a small pilot project to help with investigative work. Initial reports are encouraging. The department has worked with the Kentucky Employment Assistance Program to bring resources to staff. In Jefferson County, an onsite resource in the L&N Building for staff provides mindfulness exercises that are sensitive to the vicarious trauma that many staff experience. The cabinet is also looking into a better system to allow staff to have some administrative downtime. The cabinet plans to submit a reorganization plan, which will depend on the budget the cabinet receives. The reorganization plan would lift some of the administrative burden and add support service aides for caseworkers. The cabinet is also reviewing the Public Child Welfare Certification Program with universities across the state. The cabinet continues to look at enhancing training and has worked with Eastern Kentucky University to revamp and streamline the process. Through the Labor Cabinet, two new job classifications are being developed for apprenticeship opportunities. In order to get to the recommended standard caseloads of 17 or 18 per caseworker, the cabinet has looked at different ways to add staff while being

sensitive to the fiscal constraints of the state. There may be some opportunity to have some geographical differences in pay to better manage the marketplace competition that is prevalent in certain urban areas.

In response to questions from Senator Carroll, Ms. Johnson said the cabinet is closely following a court case headed to the U.S. Supreme Court regarding Kinship Care. The Office of Legal Services in the secretary's office is analyzing the ruling and learning to which population it applies. The ruling treats relative caregivers as foster parents if the cabinet placed the child in the custody of the relative, retained custody of the child, or transferred temporary custody to the relative. The ruling does not apply to every relative caregiver. The cabinet is working to distribute clarifying information to staff for the public. Kinship care is up nationally and in Kentucky.

In response to questions from Senator Thomas, Ms. Caywood said the report determined 420 additional staff were necessary to attain the recommended caseload of 18 to every one caseworker. Mr. Stevens said 420 additional staff would cost approximately \$28 million. Ms. Johnson said that not every caseworker has a social work degree, but they are required to have a bachelor's degree.

In response to questions from Representative Palumbo, Ms. Johnson said there are approximately 1,800 caseworkers in the state. Noncapacity staff includes staff who are new and in training, on desk duty, or on family leave.

In response to questions from Senator Carroll, Ms. Johnson said adoptions are handled on case by case. Grandparents do not have legal rights in Kentucky. The cabinet is working to do more to support kinship caregivers.

In response to questions from Representative Bechler, Ms. Johnson said parent progress is determined on a case-by-case basis. Case plans are structured differently and the parents have different requirements they must meet. Caseworkers recommend whether a parent is or is not meeting the requirements. Ms. Caywood said the courts usually follow the caseworker's recommendation. Mr. Hall said a neutral move discussed in the staff presentation refers to a move that is court ordered. Ms. Johnson said the percentage of children who return to foster care after reunification with the family fails, which is a federal outcome measure, is 14.77. Ms. Johnson was said she was hesitant to say how much it would cost to implement all the report recommendations. Ms. Caywood said the Public Child Welfare Certification Program has existed for 20 years. Not every slot is filled in the program, though retention is stronger for participants. Ms. Johnson will provide the number of how many enroll and complete the

program. There is recoupment of tuition and a stipend for those who do not complete the program, though interest is not charged. Ms. Johnson said much of the turnover the cabinet has is due to the workload and lack of support for staff. These issues are being addressed with the development of rapid response teams and the reorganization plan.

Ms. Stevens introduced Rachel Bingham, the executive officer of the Family and Juvenile Services Department. Ms. Stevens said that the current case management system was not set up to collect statistical data. In October, a pilot program began in Trimble County with a new case management system. The goal is to create an all-electronic court record. It will allow images to be accessed and allow orders to be indexed and searchable. Electronic filing is now statewide for adoption, termination, and parental rights cases and dependency, neglect, and abuse cases. This will give cabinet attorneys the ability to file in cases without traveling to the clerk's office. As part of a pilot project in the Jefferson County Court of Appeals, once a termination appeal has been filed, the clerk's office is scanning the data to transmit to the court. This will eliminate 30 to 60 days of paper moving back and forth. Utilizing the new case management system, work is being done on judicial dashboards, which will allow judges to view their own data.

The dependency, neglect, and abuse forms are developed by AOC and the cabinet. As of October 17, 2017, the Supreme Court entered an update to the Family Court Rules of Practice and Procedure that those forms will be mandatory statewide effective January 1.

Ms. Walker-FitzGerald said that since 2014 only seven states have seen a decline in the number of children in foster care, mostly due to funding being put into services. The lack of ability to gain accurate information has been a problem for years. Information is needed to know if what the courts are doing is working and whether the courts are complying with state and federal laws.

She said that she disagrees with Recommendation 1.1 of the report, which is that the period of temporary custody by the cabinet after a child has been removed from their parents due to allegations of abuse and neglect be extended beyond 45 days. The length of time appropriate for adjudication and disposition has been studied extensively for more than 20 years. Studies have shown a direct correlation between timely court hearings and timely permanency for children. The National Council of Juvenile and Family Court Judges' 1995 resource guidelines, endorsed by entities such as the National Council of Chief Justices, the National Center for State Courts, and the American Bar Association, recommended that adjudication and disposition

should occur within 60 days of the date of removal. It is not required that all issues be fixed within that time, but that an appropriate plan to do so is implemented.

She echoed the report's recommendation that the workforce of social services be increased. When fields are added to court forms, new duties are added to clerk's offices, many of which are understaffed.

If the court system is to work properly, quality representation for both parents and children is essential. The fee structure established in 1985 to pay district court attorneys \$250 per case has not changed. Family court attorneys are paid \$500 per case. The pay for these attorneys affects who is willing to accept these cases.

Counsel should be appointed for the first hearing, which studies indicate is the most important or at least one of the most important. Studies show that where an attorney is involved at the first hearing, the number of removals goes down, and that when children are removed from their parents they achieve permanency more quickly. This is easier to achieve in urban areas.

Salaries for judges also should be reviewed. Kentucky's judges are among the lowest paid in the country. Salary will have an increasing effect on whether qualified attorneys consider judicial careers. Judicial pensions have also been reduced.

She supports the Chief Justice's redistricting plan to provide family court to more areas. The permanency goal "emancipation" should be removed from the cabinet's regulations. It is not an approved permanency goal under the Adoption and Safe Families Act and it is not an acceptable goal for any child.

A judicial task force was formed in response to a request by the House Adoption Working Group for recommendations from AOC. The work group developed three recommendations for statutory changes. First, the number one issue raised by surveyed judges was the delays caused by concurrent criminal charges. Currently, adjudication of many cases is delayed due to criminal cases so that parents can testify in their of child dependency, neglect and abuse neglect cases. It was recommended that testimony by a parent accused of abuse or neglect shall not be admissible in any criminal proceeding for charges arising from the same occurrence, thus permitting the court hearing in the child protection case to move forward in a timely manner while permitting the parent to participate fully in the child dependency, neglect, and abuse proceedings. Second, the judges would like to modify the current statute governing venue for dependency cases to add that a petition may be filed in the county where the child ordinarily resides or will reside. Third, the judges would like to modify the current statutes on service of parents to be consistent with each other to lessen

confusion, increase uniform application across the state, and ensure service efforts are made in the manner most likely to provide expeditious and actual notice of the proceedings to parents.

The judges made several systemic recommendations: implement the judicial redistricting plan; increase funding for intensive in-home services and programs such as family preservation and family reunification; enforce the DCBS operating procedure for family service workers to complete the presentation summary packet no later than 10 working days following a judgement of termination of parental rights; have more concurrent planning; and continue working with the community to develop resources that allow parents to spend time with their children.

In response to a question asked earlier by Senator Carroll, Ms. Walker-FitzGerald said parents are sometimes given too many chances at redemption. This is often due to training and retention of both social workers and judges. A new social worker or judge is more likely to remove a child just to be safe. There is also more reluctance to terminate, even when the evidence is clear to do so. Retention affects the quality of decisions made.

In response to a question from about Representative Bechler about parents having an attorney at the first meeting leading to fewer children being removed, Ms. Walker-FitzGerald said the system has checks and balances. There is a social worker making a recommendation, the child's attorney, the county attorney, and a judge. Children are often removed when they do not need to be. If the parent's attorney can have services put in place immediately, the child may not need to be removed.

Senator Carroll commented that this is a growing issue. Hopefully the efforts being undertaken can make the system better. Resources are needed; it is a dilemma faced at every level of government. Due to the loss of a quorum, a vote will not be taken to adopt the report at this time.

He said that the investigation into the Perdue Pharma settlement has been postponed due to a lawsuit that was filed. The committee will not meet in December.

The meeting adjourned at 12:12 PM.



# 2018 Prefiled Bills

**BR1** - Representative Jerry Miller  
(8/16/2017)

AN ACT relating to the overtaking of bicycles on a roadway.

Amend KRS 189.300 to provide that the operator of any vehicle moving upon a highway is to keep to the right unless signage or markings indicate otherwise; amend KRS 189.340 to require vehicles overtaking bicycles to pass at a distance of at least three feet; provide that if there not a minimum distance of three feet available, the passing vehicle is to use reasonable caution; specify when a motor vehicle may pass a bicycle to the left of the center of a roadway.

(Prefiled by the sponsor(s).)

**BR2** - Representative Diane St. Onge  
(6/5/2017)

AN ACT relating to public safety.

Amend KRS 446.010 to define “unmanned aircraft system”; create a new section of KRS Chapter 500 to prescribe permitted and prohibited uses of drones; provide exceptions; prohibit use of evidence obtained by a drone in violation of stated prohibitions; authorize that section to be cited as the “Citizens’ Freedom from Unwarranted Surveillance Act”; create a new section of KRS Chapter 501 to clarify criminal liability for offenses committed using a drone; create a new section of KRS Chapter 525 to create the offense of obstructing an emergency responder.

(Prefiled by the sponsor(s).)

**BR14** - Representative Tom Burch  
(6/22/2017)

AN ACT relating to the reporting of child abuse, neglect, or dependency.

Amend KRS 620.030 to establish that if a person knows or has reasonable cause to believe that a child is dependent, neglected, or abused, causes an oral or written report of the dependency, neglect, or abuse to be made, is employed by a local law enforcement agency, the Department of Kentucky State Police, the cabinet or its designated representative, the Commonwealth’s attorney, or a county attorney, then that person shall make the oral or written report to his or her employer and to one of the other entities authorized to receive the report.

(Prefiled by the sponsor(s).)

**BR15** - Representative Jim Wayne,  
Representative Tom Burch, Representative  
Jeffery Donohue, Representative Joni  
Jenkins, Representative Mary Lou Marzian,  
Representative Reginald Meeks, Representative  
Attica Scott  
(7/13/2017)

AN ACT relating to taxation.

Amend KRS 140.130 to decouple from changes to the federal estate tax since 2003; amend KRS 141.010 to provide for a reduction and phase-out of the pension exclusion, disallow the domestic production activities deduction, establish a cap for itemized deductions, and define “taxpayer”; amend KRS 141.020 to provide for changes to income tax rates; amend KRS 141.066 to make a technical correction; amend KRS 141.0205 to recognize and order changes in income tax credits; amend KRS 141.0401 to lower the exclusion threshold; amend KRS 141.120 to change apportionment methods to use a “throwback” rule and market-based sourcing for receipts; amend KRS 141.200 to require “combined” reporting for corporations; amend KRS 134.810, 136.310, 136.530, 141.040, 141.121, 141.206, and 141.420 to conform; amend KRS 141.205 to recognize “tax haven” foreign countries and tax all income apportioned or allocated to those countries; amend KRS 141.383, 148.544, and 148.546 to make the film industry tax credit nonrefundable and nontransferable; create a new section of KRS 6.905 to 6.935 to require review and sunset of all economic development tax credits; amend KRS 131.190 to allow LRC employees to review selected tax documents; amend KRS 138.270 to reduce motor fuels dealer compensation to one percent; amend KRS 132.020 to make the real property tax rate 12.2 cents per \$100, remove the rate adjustment provision, and remove the recall provisions; amend KRS 132.260 to clarify requirements for reporting of rental space for mobile or manufactured homes, private aircraft, and certain boats or vessels; amend KRS 132.730, 132.751, 132.810, and 132.815 to clarify property tax treatment of manufactured homes; amend KRS 140.300 to clarify the treatment of agricultural valuation on inherited property; amend KRS 279.200, 279.530, 279.220, and 139.530 to repeal rural electric and telephone co-op taxes; amend KRS 132.097 and 132.099 to amend the exemption for personal property shipped out of state;

amend KRS 139.105, 139.200, 139.220, 139.270, 139.340 and 139.740 to impose sales tax on selected services; create a new section of KRS Chapter 141 to provide for a refundable Kentucky earned income tax credit; amend KRS 243.0305 and 243.990 to recognize changes in the distilled spirits case tax; amend KRS 138.130, 138.140, and 138.143 to change the tax on cigarette rolling papers, to raise the tobacco taxes, to impose a floor stock tax, and to tax e-cigarettes; amend KRS 65.125, 65.674, 67.862, 67.938, 67A.843, 68.245, 68.248, 82.095, 97.590, 132.0225, 132.023, 132.024, 132.027, 132.029, 157.440, 160.470, 160.473, 67C.147, 78.530, 342.340, and 134.810 to remove provisions that allow for recall of certain tax rates and make conforming and technical changes; create a new section of KRS Chapter 141 to provide for a refundable noise mitigation credit; repeal KRS 132.017, 132.018, 132.025, 132.720, 143A.035, and 243.710, relating to recall petitions and to various tax rates; provide that estate tax provisions apply for deaths occurring on or after August 1, 2018, sales tax provisions are effective for periods beginning on or after October 1, 2018, motor fuels compensation provisions are effective August 1, 2018, and property tax provisions are for assessments on and after January 1, 2019.

(Prefiled by the sponsor(s).)

**BR18** - Senator Morgan McGarvey  
(10/18/2017)

AN ACT relating to telecommunications.

Amend KRS 278.5461 to include a definition of “personally identifiable information”; amend KRS 278.5462 to provide that no telecommunications or Internet service provider shall collect personally identifiable information from a customer as a result of the customer’s use of the telecommunications or Internet services without the customer’s express written approval.

(Prefiled by the sponsor(s).)

**BR25** - Representative Jeffery Donohue  
(8/14/2017)

AN ACT relating to death in the line of duty benefits and declaring an emergency.

Amend KRS 16.601 and 61.621 to increase minimum death benefits payable to the surviving spouse of a member of

the state-administered retirement systems from 25% to 50% of the deceased member's final rate of pay if the member died as a result of an act occurring in the line of duty; amend KRS 61.542 to provide that the surviving spouse shall supersede all previously designated beneficiaries in the case of line-of-duty death benefits payable from the systems administered by the Kentucky Retirement Systems unless the member files a valid beneficiary designation form after marriage to his or her spouse; provide that eligible surviving spouses of members who died in the line of duty prior to the effective date of the Act shall receive the increased line of duty death benefits; provide that a surviving spouse of a hazardous duty member who died as a result of an act occurring in the line of duty on or after January 1, 2017, who was ineligible for the minimum monthly death benefits because he or she was not named beneficiary shall be eligible for the benefits provided by this Act; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR28** - Representative Jason Nemes  
(9/20/2017)

AN ACT proposing to amend Sections 117, 118, 119, and 122 of the Constitution of Kentucky relating to the election of appellate judges.

Propose to amend Sections 117, 118, 119, and 122 of the Constitution of Kentucky to fill terms of justices of the Supreme Court and judges of the Court of Appeals by appointment by the Governor from a list of three nominees provided by the judicial nominating commission; provide for appointed justices and judges who seek additional terms to stand for elections in their districts; limit individuals to two full terms of office; schedule transitional provisions; submit to the voters for approval or disapproval.  
(Prefiled by the sponsor(s).)

**BR37** - Representative Scott Wells  
(8/25/2017)

AN ACT relating to area development districts and declaring an emergency.

Amend KRS 147A.117 to require that the Auditor of Public Accounts' bill shall not exceed a quote given to an area development district by a certified public accountant for the same audit; EMERGENCY; EFFECTIVE July 1, 2018.

(Prefiled by the sponsor(s).)

**BR38** - Senator John Schickel  
(5/15/2017)

AN ACT relating to Kentucky school bus drivers.

Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."  
(Prefiled by the sponsor(s).)

**BR39** - Representative Sal Santoro  
(5/16/2017)

AN ACT relating to Kentucky school bus drivers.

Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."  
(Prefiled by the sponsor(s).)

**BR40** - Representative Kenny Imes  
(6/27/2017)

AN ACT proposing to amend Section 29 of the Constitution of Kentucky relating to administrative regulations.

Propose to amend Section 29 of the Constitution of Kentucky to permit the General Assembly or an agency or committee it creates to review, approve, or disapprove any administrative regulation of the executive branch during or between regular sessions of the General Assembly; submit to the voters for approval or disapproval; supply ballot language.

(Prefiled by the sponsor(s).)

**BR41** - Representative Kenny Imes  
(6/6/2017)

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.

Propose to amend Section 95 of the Constitution of Kentucky to hold the election of the Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, and Commissioner of Agriculture, Labor and Statistics in even-numbered years, every four years, beginning in 2024; provide transitional calendar; submit to the voters for ratification or rejection; provide ballot language.

(Prefiled by the sponsor(s).)

**BR49** - Senator Reginald Thomas  
(12/5/2017)

AN ACT relating to voting.

Create a new section of KRS Chapter 117 to allow in-person early

voting between 8 a.m. and 6 p.m. on the three Saturdays preceeding any primary, regular election or special election; amend KRS 117.087, 117.165, 117.235, and 117.995 to conform; amend KRS 118.035 to conform and to also extend voting hours for election day voting from 6 p.m. to 8 p.m.

(Prefiled by the sponsor(s).)

**BR54** - Representative Jeffery Donohue  
(6/8/2017)

AN ACT relating to railroads.

Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.  
(Prefiled by the sponsor(s).)

**BR57** - Representative Sal Santoro  
(9/22/2017)

AN ACT relating to electric and hybrid vehicle fees and making an appropriation therefor.

Create a new section of KRS Chapter 186 to establish a base fee for hybrid vehicles, hybrid electric plug-in vehicles, and non-hybrid electric vehicles; require the fee to be adjusted with any increase or decrease in the gasoline tax established in KRS 138.228; require collection of the fee at the time of motor vehicle registration; require that all fees collected under this section be transferred to the road fund; amend KRS 186.010 to define the terms "hybrid vehicle," "hybrid electric plug-in vehicle," and "non-hybrid electric vehicle"; amend KRS 186.050 to reference the fees collected under this Act; amend KRS 138.220 to provide notification to county clerks of the fees provided in this Act; make technical correction; EFFECTIVE January 1, 2019.

(Prefiled by the sponsor(s).)

**BR64** - Senator Johnny Ray Turner  
(6/1/2017)

AN ACT relating to vacating convictions for reckless homicide.

Amend KRS 431.073 to allow convictions for reckless homicide to be vacated and expunged if the offender has first been granted a partial pardon by the Governor.

(Prefiled by the sponsor(s).)

**BR65** - Senator Reginald Thomas  
(11/20/2017)

AN ACT relating to wages.

Amend KRS 337.010 to

increase the applicable threshold of employees of retail stores and service industries from \$95,000 to \$500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to \$8.20 per hour on July 1, 2018, to \$9.15 per hour on July 1, 2019, to \$10.10 per hour on July 1, 2020, to \$11.00 per hour on July 1, 2021, to \$12.05 per hour on July 1, 2022, to \$13.10 per hour on July 1, 2023, to \$13.95 per hour on July 1, 2024, and to \$15.00 per hour on July 1, 2025, and to raise the state minimum wage for tipped employees to \$2.13 per hour on the effective date of the Act, to \$3.05 per hour on July 1, 2019, to \$3.95 per hour on July 1, 2020, and to \$4.90 per hour on July 1, 2021; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

**BR66** - Senator Reginald Thomas  
(11/28/2017)

AN ACT relating to criminal justice services for veterans.

Create a new section of KRS Chapter 26A, relating to the Court of Justice, to require the Supreme Court to administer a veterans treatment court program; amend KRS 533.015 to include veterans treatment court in alternative sentencing options; amend KRS 431.515, relating to pretrial services for veterans, to remove the combat requirement, establish rules for contacting Veterans Justice Outreach programs, and require pretrial officers to provide contact information for veterans treatment courts and the Veterans Justice Outreach program.

(Prefiled by the sponsor(s).)

**BR67** - Representative Jason Nemes  
(9/20/2017)

AN ACT relating to appellate judges.

Amend KRS 118A.110 to define “retention election” for appellate judges; create a new section of KRS Chapter 118A to create an election process for retaining appointed appellate judges, following the ratification of a constitutional amendment to provide for appointments of appellate judges; amend KRS 118A.020, 118A.030, 118A.060, 118A.100, and 118A.140 to conform; repeal, reenact, and amend KRS 21A.020 to set staggered terms for appellate judges; EFFECTIVE contingently on January 1, 2020.

(Prefiled by the sponsor(s).)

**BR79** - Representative Kim King  
(11/20/2017)

AN ACT relating to telephone solicitation.

Amend KRS 367.46955 to prohibit knowingly using a caller identification service to transmit misleading or inaccurate caller identification information with the intent of defrauding or causing to another person or wrongfully obtain anything of value.

(Prefiled by the sponsor(s).)

**BR81** - Representative Brandon Reed  
(9/28/2017)

Urge the United States Fish and Wildlife Service to issue more migratory bird depredation permits and subpermits to allow Kentucky farmers to legally take black vultures that are depredating their livestock.

(Prefiled by the sponsor(s).)

**BR91** - Representative Regina Huff  
(7/25/2017)

AN ACT relating to suicide prevention training.

Amend KRS 156.095 to require two hours of in-person suicide prevention professional development training every other school year for middle and high school principals, guidance counselors, and teachers; require a newly hired staff member to receive a packet of information on suicide prevention when the person is hired in a year training is not provided; amend KRS 158.070 to delete requirement for two hours of self-study review for suicide prevention training.

(Prefiled by the sponsor(s).)

**BR93** - Representative Jerry Miller  
(12/8/2017)

AN ACT relating to disabled parking placards.

Amend KRS 189.456 to require a county clerk to issue one accessible parking placard to an applicant at no cost; change placard renewal cycle from 2 years to 6 years; specify that placard expires in the applicant’s birth month and may be renewed up to 12 months prior to expiration; establish a system for the creation of a decal to be affixed to the placard after renewal; require statement for initial permanent placard and placards issued prior to the effective date of the Act; require that a statement to obtain a placard be made on a form prescribed by the Transportation Cabinet; allow a parent or guardian of a disabled person to apply for a placard on his

or her behalf; allow an organization to obtain a placard; require an initial permanent placard to be issued at no cost; establish a fee of \$10 for a duplicate or replacement placard; specify that \$8 of the fee be forwarded to the road fund and \$2 to the county clerk; require the cabinet to promulgate administrative regulations; amend KRS 189.458 to require that an initial temporary placard be issued at no charge; establish a fee of \$10 for a replacement placard; specify that \$8 of the fee be forwarded to the road fund and \$2 to the county clerk; amend KRS 186.042 and 186.990 to conform..

(Prefiled by the sponsor(s).)

**BR97** - Representative George Brown Jr,  
Representative Attica Scott, Representative  
Reginald Meeks  
(7/12/2017)

AN ACT relating to criminal histories of job applicants.

Create a new section of KRS Chapter 344 to prohibit employers from considering or requiring disclosure of prior criminal history as part of the initial job application; title the Act “Ban the Box - The Criminal Record Employment Discrimination Act.”

(Prefiled by the sponsor(s).)

**BR102** - Representative Suzanne Miles,  
Representative Jason Nemes  
(6/29/2017)

AN ACT relating to the natural resources severance and processing tax.

Amend KRS 143A.010 to amend the definition of “processing” to include the act of loading or unloading limestone that has not otherwise been severed or treated in the Commonwealth; amend KRS 143A.035 to allow a credit for substantially identical severance or processing taxes paid to another state or political subdivision thereof; provide that no taxpayer may claim a total amount of credit that exceeds his or her tax liability; allow the Department of Revenue to report tax credit information to the Legislative Research Commission; amend other sections to conform; EFFECTIVE August 1, 2018.

(Prefiled by the sponsor(s).)

**BR105** - Senator Danny Carroll  
(10/12/2017)

AN ACT relating to sex offenses.

Amend KRS 510.050, 510.060, 510.080, 510.090, 510.110, and 510.120 to increase penalties for sex crimes against a victim who is a person with an intellectual



disability.  
(Prefiled by the sponsor(s).)

**BR106** - Representative Tom Burch  
(12/8/2017)

AN ACT relating to instruction in the prevention of sexually transmitted diseases and related matters.

Create a new section of KRS Chapter 158 requiring the State Board of Education to promulgate regulations regarding human sexuality education; require implementation of a Department of Education-Approved plan during the 2019-2020 school year; set the minimum instructional requirements for grades four through twelve; require instruction by a certified teacher.

(Prefiled by the sponsor(s).)

**BR113** - Senator Brandon Smith  
(9/8/2017)

AN ACT relating to sign language interpretation in the House and Senate chambers.

Amend KRS 7.100 to require the Legislative Research Commission to provide sign language interpretation in each chamber of the General Assembly whenever the General Assembly is in session.

(Prefiled by the sponsor(s).)

**BR114** - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette  
(6/30/2017)

AN ACT relating to the Public Service Commission.

Create a new section of KRS Chapter 278 to require the Public Service Commission to reconsider previously issued orders that involve multistate transactions if the orders involve a multistate transaction that requires approval from another state public utility commission and the out-of-state public utility commission fails to approve the transaction or utility plan; require the Public Service Commission to review its previous order and determine whether the order is still in the public interest of Kentucky ratepayers; provide that the provisions of this Act shall apply retroactively to all Public Service Commission orders issued on or after July 1, 2013.

(Prefiled by the sponsor(s).)

**BR115** - Representative Chris Harris, Representative Rocky Adkins, Representative

Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette  
(6/30/2017)

Direct the Public Service Commission to reexamine the electric rates charged to certain ratepayers to determine if they remain fair, just, and reasonable.  
(Prefiled by the sponsor(s).)

**BR116** - Senator Richard Girdler  
(12/8/2017)

Adjourn in honor and loving memory of Mayor Frey Todd.  
(Prefiled by the sponsor(s).)

**BR117** - Representative Kim King  
(11/17/2017)

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

**BR122** - Senator John Schickel  
(12/7/2017)

Honor Kellie Clark upon being named 2017 Kentucky Teacher of the Year.  
(Prefiled by the sponsor(s).)

**BR127** - Representative Ken Fleming  
(11/29/2017)

AN ACT relating to service delivery improvements in managed care networks.

Create new sections of KRS Chapter 205 to define terms; establish and require that the Department for Medicaid Services designate a single credentialing verification organization to verify credentials for DMS and all contracted Medicaid Managed Care Organizations; submit the credentialing organization to Government Contract Review Committee for comment; require providers to submit a single application to the credentialing organization; require notification within 5 days to the provider if application is complete; require verified packets be sent to the DMS and MCOs within 30 days; require DMS to enroll providers within 15 days and for the MCOs to

determine if they will contract with the provider within 15 days; specify that for reimbursement of claims purposes the date of the submission of the credentialing application shall be the date of original enrollment and credentialing; address the written internal appeals process of MCOs; require 24/7 utilization reviews and daily staffing for claims resolution; establish grievance and appeal timeline and written appeal requirements; require reprocessing of incorrectly paid or erroneously denied claims; allow for in-person meetings for unpaid claims beyond 45 days and that individually or in the aggregate exceed \$2,500; require consistency and timeliness between physical, behavioral, or other medically necessary services; establish timelines for preauthorization requests; require that substance use disorder be treated as an urgent preauthorization request; require a single nationally recognized clinical review criteria for both physical health and behavioral health services; establish monthly reporting requirements for MCOs relating to claims; require reporting between the DMS and the Department of Insurance; establish penalties for MCOs that fail to comply; prohibit automatic assignment of Medicaid enrollees to an MCO unless there is a participating acute care hospital within the distance requirements; allow for enrollees to change MCOs outside of the open enrollment if their hospital or PCP terminates participation with an MCO; amend KRS 304.17A-515 to require each managed care plan to demonstrate that it offers physically available acute care hospital services; amend KRS 304.17A-576 to require a response about credentialing within 45 instead of 90 days; amend KRS 304.17A-700 to reference Section 1 of the bill.

(Prefiled by the sponsor(s).)

**BR131** - Senator Alice Kerr  
(10/17/2017)

AN ACT relating to the safe disposal of controlled substances.

Amend KRS 218A.170 to require a practitioner or a pharmacist to sell or distribute a nontoxic composition, which permanently captures the controlled substance, for the sequestration or deactivation and disposal of unused, unwanted, or expired controlled substances anytime a controlled substance is sold or distributed.

(Prefiled by the sponsor(s).)

**BR136** - Senator Julie Adams  
(12/1/2017)

AN ACT establishing the Kentucky Rare Disease Advisory Council and making an

appropriation therefor.

Create new sections of KRS Chapter 211 to establish the Kentucky Rare Disease Advisory Council; list members to be appointed by the Governor; state the duties of the council; require a report of council activities; create a rare disease trust fund to be administered by the Cabinet for Health and Family Services to finance the operation of the council and support rare disease research and treatment; require a report on expenditures from the fund; require the council to cease to exist on December 1, 2028, unless otherwise reestablished by the General Assembly.

(Prefiled by the sponsor(s).)

**BR142** - Representative Phil Moffett  
(12/7/2017)

AN ACT relating to the taking of the sense of the people of the Commonwealth as to the necessity and expediency of calling a convention to revise or amend the Constitution of Kentucky, and the amendments that may have been made to it, as provided by Section 258 of the Constitution of Kentucky.

Propose to take the sense of the people of Kentucky regarding the calling of a convention to revise or amend the Constitution of Kentucky, as provided by Section 258 of the present Constitution.

(Prefiled by the sponsor(s).)

**BR143** - Representative Dan Johnson  
(10/5/2017)

AN ACT relating to unborn children and declaring an emergency.

Amend KRS 507A.010 to redefine “abortion,” “unborn child” and define “fertilization”; amend the definition of unborn child; require prosecution for the death of an unborn child without limitation and not withstanding any other state law regardless of the identity of the actor; create a new section of KRS Chapter 15 to require the Attorney General and Commonwealth’s attorneys to monitor and enforce KRS Chapter 507A; amend KRS 211.027, 311.720, 311.727, and 311.760 to conform; repeal KRS 311.710 and 507A.060; permit the Act to be cited as the Abolition of Abortion in Kentucky Act; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR145** - Senator John Schickel  
(12/7/2017)

Adjourn in honor and loving memory of Vivian Stewart Cartmell.

(Prefiled by the sponsor(s).)

**BR146** - Senator Wil Schroder  
(12/8/2017)

Adjourn in honor and loving memory of James Paul David “Jim” Bunning Jr.  
(Prefiled by the sponsor(s).)

**BR148** - Representative Dan Johnson  
(11/28/2017)

AN ACT relating to freedom of speech at public postsecondary education institutions.

Amend KRS 164.348 to require public postsecondary institutions to adopt policies ensuring the protection of freedom of speech and expression by students and faculty.  
(Prefiled by the sponsor(s).)

**BR149** - Representative Dennis Keene  
(9/18/2017)

AN ACT relating to the expansion of gaming and making an appropriation therefor.

Create a noncodified section to state the findings of the General Assembly; amend KRS 154A.010 to define, “authorizing location,” “casino,” “county,” “county legislative body,” “department,” “full casino gaming,” “gaming licensee,” “gross gaming revenue,” “handle,” “licensee,” “limited casino gaming,” and “principal”; amend KRS 154A.030 to expand the Lottery Corporation board membership and duties; amend KRS 154A.040 to include casino licensees; amend 154A.063 to remove prohibition against casino gaming; create new sections of KRS Chapter 154A to require a local option election in any precinct wanting to host a casino; describe the duties of the county clerk and sheriff in a casino gaming local option election; state requirements for local option elections held on a day other than a regular election day; require the corporation to advertise an invitation to bid for casinos; require the corporation to evaluate all proposals for full casinos; establish initial licensing fees for full casinos at \$50 million with an initial licensing period of 10 years and annual renewal thereafter at \$6 million per year; permit limited casino gaming at horse racing tracks licensed under KRS Chapter 230; establish requirements for limited casinos; establish requirements for any track holding a limited casino license; establish requirements for principals of any corporation granted a casino license; create license application requirements for casino, manufacturer, or supplier’s licenses; prohibit anyone not licensed from selling, leasing, or otherwise furnishing gaming supplies; prohibit anyone under the age of 21 from participating in casino gaming;

require the Lottery Corporation to determine occupations related to casino gaming that require licensure and establish criteria for occupational licensing; permit the corporation to initiate disciplinary action against applicants and license holders; establish an appeal process; establish a gaming tax of 31% and limit that money to the benefit of the state retirement systems for the first 10 years; establish an admission tax of \$3 per person per day; establish the casino gaming revenue distribution trust fund; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. sec. 1172, 1173 and 1174 for devices authorized by this Act; require the corporation to promulgate administrative regulations to define and limit games and devices permitted for gaming in casinos; provide guidelines for exclusion or ejection of certain persons; define “cheat” and provide penalties for those who cheat at casino games; amend KRS 243.500 to exempt limited or full casino gaming; amend KRS 525.090 to exempt persons engaged in casino gaming; amend KRS 528.010 to exempt gambling activity and devices licensed under KRS Chapter 154A; amend KRS 528.020 to conform; amend KRS 528.070 to exempt activity licensed under KRS Chapter 154A; amend KRS 528.080 to exempt those with the appropriate license required under KRS Chapter 154A; amend KRS 528.100 to exempt limited or full casino gaming licensed under KRS Chapter 154A; EFFECTIVE DATE DELAYED.

(Prefiled by the sponsor(s).)

**BR155** - Senator Julian Carroll  
(9/20/2017)

AN ACT relating to sports wagering and making an appropriation therefor.

Create a new section of KRS Chapter 230 to require the Kentucky Horse Racing Commission to institute a sports wagering system; amend KRS 230.210 to define “exempt sports contest,” “sports wagering,” and “sports wagering facility”; amend KRS 230.215 to declare it the policy of the Commonwealth to encourage the conduct of wagering on sporting events, when allowed by federal law, and to vest forceful control over sports wagering in the racing commission; include consideration of members of professional and collegiate sports organizations in the Governor’s appointments to the commission; amend KRS 230.240 to allow the director of the racing commission to take personnel action relating to sports wagering; amend KRS 230.260 to include promotion of fair sports wagering among the

purposes of the racing commission; create a new section of KRS Chapter 230 to establish licensing requirements and establish a licensing fee of \$250,000; create a new section of KRS Chapter 230 to require the racing commission to promulgate administrative regulations prescribing the manner in which sports wagering shall be conducted; provide minimum criteria; prohibit participants from wagering on a sporting event; create a new section of KRS Chapter 230 to establish a 20 percent tax on the total amount wagered at sports wagering facilities; create a new section of KRS Chapter 230 to establish the sports wagering distribution trust fund and appropriate moneys from that fund; amend KRS 230.320 to include sports wagering among the activities that are regulated by the racing commission; amend KRS 230.360 to include sports wagering among the activities that are not subject to local control; amend KRS 230.990 to establish penalties for tampering with the outcome of a sporting event and participant wagering on a sporting event; EFFECTIVE UPON CONTINGENCY: Act takes effect only if the federal Professional and Amateur Sports Protection Act is repealed by Congress or is rendered void by the United States Supreme Court.

(Prefiled by the sponsor(s).)

**BR160** - Representative Phil Moffett  
(12/7/2017)

AN ACT relating to trespass.

Amend KRS 511.070 to allow notice of trespass to be given through the placement of identifying purple paint marks on property; require any owner or lessee who marks his or her real property in such a manner to also provide clear written notice forbidding entry.

(Prefiled by the sponsor(s).)

**BR163** - Senator Julian Carroll  
(10/18/2017)

AN ACT relating to cannabidiol use.

Create a new section of KRS Chapter 218A to permit a physician to recommend the use of cannabidiol or cannabidiol products; set criteria for recommendations; prohibit the Board of Medical Licensure from prohibiting recommendations; amend KRS 218A.010 to add recommendation to the definition of marijuana.

(Prefiled by the sponsor(s).)

**BR164** - Senator Morgan McGarvey  
(10/19/2017)

AN ACT relating to animal safety.

Amend KRS 411.245 to establish immunity from civil liability for damage to a vehicle if a person enters the vehicle for the purpose of removing a domestic animal.

(Prefiled by the sponsor(s).)

**BR165** - Representative Jim Wayne  
(8/8/2017)

AN ACT relating to firearms.

Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.

(Prefiled by the sponsor(s).)

**BR169** - Representative Kim King  
(12/6/2017)

AN ACT relating to pawnbrokers.

Amend KRS 226.040 to require specific information on a pawnbroker's register to be included on an Internet-based register; require that the register be available to law enforcement personnel and that it contain a full description of property purchased or pawned; require secondhand merchandise sold to a pawnbroker to be held a minimum of 12 days before being resold.

(Prefiled by the sponsor(s).)

**BR170** - Representative Attica Scott,  
Representative George Brown Jr,  
Representative Kelly Flood  
(8/31/2017)

AN ACT relating to student criminal history background checks.

Create a new section of KRS Chapter 164 to prohibit public postsecondary institutions from inquiring about a prospective student's criminal history prior to admission, except for certain types of offenses; allow an institution to inquire about a student's criminal history after admission, for the purposes of providing support services and informing decisions regarding a student's participation in campus activities, organizations, and residency; allow an institution to inquire about a student's criminal history prior to admission into a professional degree program, but prohibit denial of admission based solely on criminal history; require institutions to provide counseling regarding occupational licensing requirements to a professional degree student who has a criminal history.

(Prefiled by the sponsor(s).)

**BR172** - Representative C. Wesley Morgan  
(8/22/2017)

AN ACT relating to carrying concealed weapons.

Create a new section of Chapter 237 to allow concealed deadly weapons to be carried without a license in same locations as concealed carry license holders may carry them; amend KRS 237.115 and 527.020 to conform.

(Prefiled by the sponsor(s).)

**BR173** - Representative C. Wesley Morgan  
(8/18/2017)

AN ACT relating to public assistance.

Amend KRS 205.200 to create a substance abuse screening program for adult recipients of public assistance, food stamps, and state medical assistance.

(Prefiled by the sponsor(s).)

**BR174** - Representative C. Wesley Morgan  
(10/25/2017)

AN ACT relating to historical preservation.

Create new sections of KRS Chapter 11 to establish the Kentucky Memorial Preservation Act of 2018; define terms; create standards for preservation; prohibit any person from preventing maintenance of memorials under the jurisdiction of a governmental entity; establish the Committee on Kentucky Monument Protection and provide the structure, process, and membership of the committee; establish the duties of the committee; establish a petition process for a waiver if an entity wants to remove, alter, rename, relocate, or disturb certain significant properties; create certain exemptions; authorize the Attorney General to determine whether an entity responsible for the architecturally significant building, memorial building, memorial school, memorial street, or monument has complied with the provisions of this Act; require the Division of Historic Properties to promulgate administrative regulations under KRS Chapter 13A for the implementation of this Act; amend KRS 11.026 to conform.

(Prefiled by the sponsor(s).)

**BR175** - Representative C. Wesley Morgan  
Oct 09-WITHDRAWN



**BR182** - Representative Rick Nelson  
(8/17/2017)

AN ACT relating to electric utility billing.

Create a new section of KRS Chapter 278 to place a cap on the amount that an electric utility can bill for a basic service charge.

(Prefiled by the sponsor(s).)

**BR187** - Senator Dorsey Ridley  
(9/27/2017)

AN ACT relating to notification of the expiration date of an instruction permit, operator's license, or personal identification card.

Create a new section of KRS 186.400 to 186.640 to require the Transportation Cabinet to notify holders of operator's licenses, instruction permits, and personal ID cards of the impending expiration of these documents 45 days prior to their expiration; allow notice by electronic or postal mail; allow license, permit, and ID card holders to provide electronic mail addresses for notification or opt out of notification; clarify that nonreceipt of a notice shall not constitute a defense to any offense regarding an expired permit or license.

(Prefiled by the sponsor(s).)

**BR192** - Representative Jason Nemes  
(10/13/2017)

AN ACT relating to personal jurisdiction.

Amend KRS 454.210 to expand personal jurisdiction of courts over nonresidents.

(Prefiled by the sponsor(s).)

**BR193** - Representative Jason Nemes  
(10/20/2017)

AN ACT relating to occupational licensing regulations.

Create new sections of KRS Chapter 12 to define terms; set forth requirements for all occupational licensing regulations established by an agency on or after November 15, 2018; require each agency to conduct a comprehensive review of all occupational licensing regulations under its jurisdiction every five years and to prepare and submit a report of its review to the Legislative Research Commission; establish a process to petition an agency to repeal or modify an occupational licensing regulation; allow a petitioner to appeal an agency's actions or inaction to Circuit Court.

(Prefiled by the sponsor(s).)

**BR195** - Representative Regina Huff  
(9/15/2017)

AN ACT relating to a day of prayer for students.

Create a new section of KRS Chapter 2 designating the last Wednesday in September of each year as A Day of Prayer for Kentucky's Students.

(Prefiled by the sponsor(s).)

**BR197** - Representative Dennis Keene,  
Representative Rick Rand  
(9/18/2017)

AN ACT proposing an amendment to Section 226 of the Constitution of Kentucky relating to casino gaming.

Propose to amend Section 226 of the Constitution of Kentucky to authorize the General Assembly to define and permit casino gaming; prior to July 1, 2029, require that proceeds be used to pay for oversight of casino gaming, and mandate that 100 percent of proceeds in excess of oversight costs go to retirement systems; after July 1, 2029, allow the General Assembly to allocate proceeds.

(Prefiled by the sponsor(s).)

**BR199** - Representative Kenny Imes  
(9/18/2017)

Urge the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset provision.

(Prefiled by the sponsor(s).)

**BR204** - Senator Richard Girdler, Senator  
Stephen Meredith  
(9/28/2017)

AN ACT relating to retirement benefit participation for members of the General Assembly.

Create a new section of KRS 6.145 to 6.237 to allow an individual who becomes a member of the General Assembly on or after the effective date of the Act to make a one-time irrevocable election to not participate in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for his or her service to the General Assembly; allow an individual who has not yet met the requirements for vesting to make a one-time irrevocable election within 60 days of the effective date of this Act to discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System

for his or her service to the General Assembly and receive a refund of his or her accumulated account balance; provide that the election to not participate or discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System shall apply to all future service of the General Assembly; amend KRS 6.505, 61.510, 61.525, 61.535, and 61.625 to conform.

(Prefiled by the sponsor(s).)

**BR205** - Representative C. Wesley Morgan  
(12/4/2017)

Expel Representative Jeff Hoover from the Kentucky House of Representatives.

(Prefiled by the sponsor(s).)

**BR208** - Representative Scott Wells  
(11/28/2017)

AN ACT relating to unemployment insurance.

Create a new section of KRS Chapter 341 to define a "seasonal/on recall employee" and require certification for an employer with these types of employees; amend KRS 341.350 to exempt seasonal/on recall employees from the waiting week and reemployment requirements.

(Prefiled by the sponsor(s).)

**BR210** - Representative Attica Scott,  
Representative Reginald Meeks  
(11/22/2017)

AN ACT relating to the investigation of a shooting or deadly incident by a law enforcement officer.

Create new sections of KRS Chapter 15A to provide definitions and establish an Officer Shooting Review Board to investigate any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement; set requirements for board members; provide duties of the board; specify requirements related to investigatory work performed by the Kentucky State Police Critical Incident Response Team on behalf of the board; establish investigatory procedures and protocols; provide requirements for submission of the board's report to the Commonwealth's attorney of the jurisdiction in which the shooting or deadly incident took place or to the Attorney General; provide requirements for independent investigation of any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement.

(Prefiled by the sponsor(s).)

**BR213** - Senator Richard Girdler, Senator Stephen Meredith  
(9/28/2017)

AN ACT relating to retirement benefits for legislators.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2018; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2018; provide that current and future legislators may only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2018.

(Prefiled by the sponsor(s).)

**BR214** - Senator Johnny Ray Turner  
(11/13/2017)

Direct the Transportation Cabinet to designate a Floyd County bridge in honor of Julius Mullins.

(Prefiled by the sponsor(s).)

**BR215** - Senator John Schickel  
(12/7/2017)

Honor Metzger Eye Care upon the occasion of its 60th anniversary.

(Prefiled by the sponsor(s).)

**BR216** - Senator Max Wise  
(9/25/2017)

AN ACT relating to pharmacy benefits in the Medicaid program.

Create a new section of KRS Chapter 205 to require the Department for Medicaid Services to directly administer all outpatient pharmacy benefits; prohibit renewal or negotiation of new contracts to provide Medicaid managed care that allow administration of outpatient benefits by any entity but the Department for Medicaid Services; reduce costs of future Medicaid managed care contracts by costs of all outpatient pharmacy benefits as they existed on January 1, 2017; allow the department to utilize managed care principles and techniques to assist with member medication adherence and cost control; require the department to establish a reasonable dispensing fee pursuant to Centers for Medicare and Medicaid Services guidelines; EFFECTIVE January 1, 2019.

(Prefiled by the sponsor(s).)

**BR217** - Representative Joseph Fischer  
(11/30/2017)

AN ACT relating to sex offender registrants.

Amend KRS 17.546 to prohibit sex offender registrants from knowingly or intentionally using electronic communications for the purpose of soliciting, contacting, communicating with, or gathering information about a person less than 18 years of age; provide an exception for a registrant using electronic communications to contact, communicate with, or gather information about his or her minor child if not otherwise prohibited and if permitted by the sentencing court; amend KRS 17.510 to require a registrant to provide written notice of all phone numbers, electronic mail addresses, and usernames used by a registrant to electronically communicate with a person less than 18 years of age.

(Prefiled by the sponsor(s).)

**BR224** - Senator Stephen Meredith  
(12/6/2017)

AN ACT relating to tobacco-related illnesses and making an appropriation therefor.

Create a new section of KRS 205.510 to 205.560 to establish the Medicaid tobacco-related illness reimbursement fund; create a new section of KRS Chapter 212 to establish the county tobacco cessation fund; create a new section of KRS Chapter 212 to provide a minimum smoke-free ordinance for counties to receive money from the county tobacco cessation fund; amend KRS 138.140 to impose a healthcare reimbursement assessment on cigarettes and other tobacco products, including e-cigarettes; amend KRS 138.130 to update definitions for chapter, including adding e-cigarettes to definition of tobacco products; amend various sections of the Kentucky Revised Statutes to conform.

(Prefiled by the sponsor(s).)

**BR228** - Representative Joseph Fischer, Representative Bart Rowland  
(9/26/2017)

AN ACT relating to credit freezes and declaring an emergency.

Amend KRS 367.365 to allow for security freezes to be requested by methods established by the consumer reporting agency; allow consumers to request a replacement personal identification number or password in the same manner as the original security freeze request; remove the expiration of a credit freeze after seven years; include gender-neutral language; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR230** - Representative Jason Nemes, Representative C. Wesley Morgan  
(10/20/2017)

AN ACT relating to retirement benefits for legislators.

Create new sections of KRS 6.500 to 6.577 to permit a member or retiree of the Legislators' Retirement Plan to opt out of the traditional defined benefit plan and elect to participate in the Kentucky Employees Retirement System's hybrid cash balance plan for nonhazardous employees under KRS 61.597; specify that, on the member's effective election date, the value of the active member's accumulated account balance or a lump-sum payment of the actuarial value of the retiree's benefits be deposited into the member's hybrid cash balance account and be considered part of the member's accumulated account balance in the Kentucky Employees Retirement System; specify that on an active member's effective election date, an employer pay credit shall be applied to the member's accumulated account balance for each contributing month prior to the effective election date; require the Judicial Form Retirement System and the Kentucky Retirement Systems to provide the electing member with information detailing the consequences of the member's or retiree's election; specify that a member or retiree is not eligible to make an election until a private letter ruling by the IRS is received; make the benefit election under this section irrevocable; amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2018, and transfer all legislative members' in the hybrid cash balance plan to the hybrid cash balance plan in the Kentucky Employees Retirement System; make conforming amendments to KRS 21.374, 21.402, and 61.597; amend KRS 141.010 and 141.020 to provide that, effective for taxable years on or after January 1, 2019, members and retirees of the Legislators' Retirement Plan who do not opt out of the traditional defined benefit plan and elect to participate in the Kentucky Employees Retirement System's hybrid cash balance plan have any retirement distributions exceeding \$80,000 taxed at a rate of 75%.

(Prefiled by the sponsor(s).)

**BR234** - Representative Robby Mills  
(9/28/2017)

AN ACT relating to estheticians.  
Amend KRS 317B.025 to reduce from 1,000 to 700 the hours of instruction required for licensure as an

esthetician; permit the instruction to be held in a school in another state if the school is licensed or approved by that state.

(Prefiled by the sponsor(s).)

**BR235** - Representative Robby Mills  
(9/28/2017)

AN ACT relating to retirement benefit participation for members of the General Assembly and declaring an emergency.

Create a new section of KRS 6.145 to 6.237 to allow individuals who become members of the General Assembly on or after April 1, 2018, to make a one-time irrevocable election to not participate in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for their service to the General Assembly; allow members of the General Assembly who began contributing to the Legislators' Retirement Plan or the Kentucky Employees Retirement System on or after December 31, 2014, but prior to April 1, 2018, to make a one-time irrevocable election by December 31, 2018, to discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for their service to the General Assembly and receive a refund of accumulated contributions; provide that the election to not participate or discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System applies to all future service of the General Assembly; amend KRS 6.505, 61.510, and 61.525 to conform; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR247** - Senator Dennis Parrett  
(10/4/2017)

AN ACT relating to kinship care.

Amend KRS 605.120 to permanently establish a kinship care program.  
(Prefiled by the sponsor(s).)

**BR248** - Senator Dennis Parrett  
(9/29/2017)

AN ACT relating to educational programs.

Create a new section of KRS Chapter 158 to require the Department of Education to develop academic standards for a financial literacy program to be implemented by each public high school; require the financial literacy program to be completed for high school graduation; direct the department to determine the implementation date.  
(Prefiled by the sponsor(s).)

**BR263** - Representative Dan Johnson  
(11/28/2017)

AN ACT relating to Internet blocking software and making an appropriation therefor.

Create new sections of KRS Chapter 367 to require filters for obscenity, child pornography, revenge pornography, and prostitution on all Internet-enabled devices; define various terms; establish criminal penalties; establish procedures for reporting Internet content that is not properly filtered; create process for deactivation of filters for a fee of \$20 per device; allow manufacturers, sellers, lessors, and distributors of devices to add removal fees; amend KRS 49.480 regarding the crime victims compensation fund and KRS 529.140 regarding the human trafficking victims fund to accept moneys from filter deactivation fees and to conform statutory language with other fund statutes; EFFECTIVE July 1, 2019.

(Prefiled by the sponsor(s).)

**BR271** - Senator Danny Carroll  
(10/12/2017)

AN ACT relating to the safety of canines and felines.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.

(Prefiled by the sponsor(s).)

**BR275** - Representative C. Wesley Morgan  
Oct 26-WITHDRAWN

**BR278** - Representative Stan Lee  
(11/21/2017)

AN ACT relating to traumatic brain injury treatment for veterans.

Create new sections of KRS Chapter 217 to define terms; permit eligible veterans to use hyperbaric oxygen treatment for treatment of traumatic brain injury; establish the conditions for use of hyperbaric oxygen treatment; prohibit sanctions of health care providers; clarify the duties of health care insurers regarding hyperbaric oxygen treatment; prohibit certain actions by state officials; provide that the Act may be known as the Colonel Ron Ray Veterans Traumatic Brain Injury Treatment Act.

(Prefiled by the sponsor(s).)

**BR280** - Representative Daniel Elliott  
(11/22/2017)

AN ACT relating to retirement benefits for legislators.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2018; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2018; provide that current and future legislators shall only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2018.

(Prefiled by the sponsor(s).)

**BR285** - Representative Regina Huff  
(10/19/2017)

Apply to Congress Article V of the Constitution of the United States for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government and that limit the powers and jurisdiction of the federal government; state that the application be aggregated with the applications of other states and limited for the purposes identified in the applications; state that the application be a continuing application until a convention is called or until the application is withdrawn by the Kentucky General Assembly.

(Prefiled by the sponsor(s).)

**BR286** - Senator Morgan McGarvey  
(12/8/2017)

AN ACT relating to the security of personal information and declaring an emergency.

Amend KRS 367.363 to include additional definitions; amend KRS 367.3645 to provide for a free security freeze in the event a protected person has been notified of a security breach pursuant to the Act and to make technical corrections; amend KRS 367.365 to require consumer reporting agencies to encrypt electronic data contained in consumer files and consumer reports; allow for security freezes to be requested by methods established by the consumer reporting agency; allow consumers to request a replacement personal identification number or password in the same manner as the original security freeze request; remove the expiration of a credit freeze after seven years; include gender-neutral language; to prohibit a credit reporting agency from charging a fee for security freeze in the event a consumer has



been notified of a security breach; require that consumer reporting agencies notify consumers of security breaches in compliance with KRS 365.732(4) to (7) and provide five years of credit monitoring; allow for a security freeze placed at one nationwide consumer reporting agency to be sent and applied to other nationwide consumer reporting agencies; require third-party agents to notify consumer reporting agencies of security breaches; require consumer reporting agencies to comply with KRS 365.732(3); prohibit requirements that consumers waive rights or submit to arbitration; amend KRS 365.730 to extend definitions to KRS 365.732; to conform the definition of “personally identifiable information”; amend KRS 365.732 to define “encrypt,” and “security breach”; provide an exemption for consumer reporting agencies subject to this Act; prohibit electronic or substitute notice from being sent to electronic and email accounts involved in the security breach; provide for the request for three consumer reports from each nationwide consumer reporting agency by consumers affected by a security breach; prohibit requirements that consumers waive rights or submit to arbitration; require certain information holders to encrypt personally identifiable data; make technical corrections; amend KRS 61.931 to exempt certain persons from the definition of “nonaffiliated third parties”; conform the definition of “personally identifiable information”; make technical corrections; amend KRS 61.932, KRS 61.933, 61.934, 171.450, 42.722, and 42.726 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR305** - Representative C. Wesley Morgan  
(10/24/2017)

AN ACT relating to public protests.

Create a new section of KRS Chapter 525 to create a Class A misdemeanor, disruption of a public protest, for a person who wears a mask or hood concealing his or her face while engaging in a public protest; create a new section of KRS Chapter 525 to create a Class A misdemeanor, obstruction of traffic; abolish criminal or civil liability for a motor vehicle operator who causes injury or death to a person obstructing the flow of traffic during a public demonstration for which a permit has not been granted, unless the infliction of injury or death is intentional; create a new section of KRS Chapter 522 to prohibit any person, including a public servant, from preventing a peace officer from performing official duties at a protest.

(Prefiled by the sponsor(s).)

**BR306** - Senator John Schickel  
(12/7/2017)

Adjourn in honor and loving  
memory of Michael Todd Hays.  
(Prefiled by the sponsor(s).)

**BR310** - Representative James Tipton  
(10/31/2017)

AN ACT relating to educational  
programs.

Create a new section of KRS Chapter 158 to require the Department of Education to develop academic standards for a financial literacy program to be implemented by each public high school; require the financial literacy program to be completed for high school graduation; direct the department to determine the implementation date.

(Prefiled by the sponsor(s).)

**BR312** - Representative James Tipton  
(10/26/2017)

AN ACT relating to drug education.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations to require physical and health education instruction in drug abuse prevention and the connection between abuse and addiction to other drugs; require the Office of Drug Control Policy to develop recommendations for the instruction in drug abuse prevention to be published on the Web site of the Department of Education.

(Prefiled by the sponsor(s).)

**BR315** - Representative Regina Huff  
(12/8/2017)

Apply to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraint on the federal government and that limit the powers and jurisdiction of the federal government; to state that the application be aggregated with the applications of other states limited for the purposes identified in the applications; state that the application be a continuing application until a convention is called or until the application is withdrawn by the Kentucky General Assembly.

(Prefiled by the sponsor(s).)

**BR325** - Representative Reginald Meeks  
(11/17/2017)

AN ACT relating to patient quality of

life.

Create new sections of KRS Chapter 211 to define terms; establish the Palliative Care and Quality of Life Interdisciplinary Advisory Council within the Cabinet for Health and Family Services and create provisions and requirements; establish the Palliative Care Consumer and Professional Information and Education Program within the cabinet and create provisions and requirements; require all health facilities to establish systems for identifying patients or residents who could benefit from palliative care and provide information by 2021; allow the cabinet to require action plans and impose fines for those in violation.

(Prefiled by the sponsor(s).)

**BR339** - Representative Ken Fleming ,  
Representative John Blanton, Representative  
Robert Benvenuti III, Representative  
Joseph Fischer, Representative Jason Petrie,  
Representative John Sims Jr  
(11/28/2017)

AN ACT relating to law enforcement  
support programs, declaring an emergency, and  
making an appropriation therefor.

Create a new section of KRS Chapter 15 to require the Department of Criminal Justice Training to provide a law enforcement professional development and wellness program; outline standards for program; require program to be confidential; create a fund for the program’s administration; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR346** - Representative Ken Fleming ,  
Representative Kimberly Moser  
(12/4/2017)

AN ACT relating to legislative ethics.

Create new sections of KRS 6.601 to 6.849 to make it ethical misconduct for a legislator, employee of the legislative branch, legislative agent, or other person who interacts with legislators or employees of the legislative branch to intentionally engage in harassment or sexual harassment; define “complaint” as a verbal or written allegation of fraud, theft, ethical or official misconduct, discrimination, harassment, or sexual harassment; grant the Legislative Ethics Commission jurisdiction to investigate and proceed upon receipt of a complaint from an employee of the legislative branch regarding fraud, theft, ethical or official misconduct, discrimination, harassment, or sexual harassment allegedly committed by legislators, employees of the legislative branch, legislative agents, or any

other person who interacts with legislators or employees of the legislative branch on state property or official state business; require the Legislative Ethics Commission to establish a legislative ethics telephone tip line to allow employees of the legislative branch to report complaints of fraud, theft, ethical or official misconduct, discrimination, harassment, or sexual harassment; require the Legislative Ethics Commission to publicize the existence of the legislative ethics telephone tip line by various methods; require the legislative ethics telephone tip line to be available 24 hours a day, seven days a week, with the Legislative Ethics Commission providing staff during regular business hours and allowing for recorded messages; require forwarding of information reported on the tip line to the executive director of the Legislative Ethics Commission or designee on an approved form; provide that the alleged perpetrator shall be notified and given the opportunity to file a written response; require the chair, vice chair, or executive director of the Legislative Ethics Commission to interview the complainant, the alleged perpetrator, and any other person with information pertinent to the complaint; direct the commission to give the status of the complaint and a general statement of applicable law to the complainant and alleged perpetrator; provide for consultation with the complainant and, if the chair and vice chair of the Legislative Ethics Commission agree the complaint is resolved, closing of the file; if the complaint has not been resolved, require the enforcement counsel of the commission to file a complaint as provided in KRS 6.686(1)(a); set forth confidentiality provisions; provide that complainants shall not be subject to reprisal; require annual reporting of the complaints reported on the legislative ethics telephone tip line; allow employees to pursue other ways of reporting complaints of fraud, theft, ethical or official misconduct, discrimination, harassment, or sexual harassment; permit employees who report complaints to seek assistance from the Kentucky Employee Assistance Program or from private health professionals for matters related to the complaints; amend KRS 6.611 and 11.010 to conform.

(Prefiled by the sponsor(s).)

**BR347** - Representative George Brown Jr,  
Representative Reginald Meeks  
(11/20/2017)

Urge Congress to encourage all state and local governments to participate in the Local Update of Census Addresses (LUCA) program administered by the United States Census Bureau.

(Prefiled by the sponsor(s).)

**BR350** - Representative Phil Moffett  
(12/8/2017)

AN ACT raising revenue for pensions, making an appropriation therefor, and declaring an emergency.

Amend KRS 243.884 to increase the wholesale sales tax rate for beer, wine, and distilled spirits to 14 percent; amend KRS 243.890 to conform; create a new section of KRS Chapter 42 to establish the underfunded pension trust fund to fund pension plans; create a new section of KRS Chapter 243 to forbid local governments from imposing a regulatory license fee on the sale of alcoholic beverages; amend KRS 242.1292 to conform; amend KRS 244.440 to require that every distiller, rectifier, winery, and nonresident wholesaler make its brands available to any wholesaler and not grant the distributing rights of any particular brand to only one wholesaler exclusively; amend KRS 243.170 to require that alcohol wholesalers make deliveries to retailers on a timely basis and no later than one week after the order date; amend KRS 243.180 to require that alcohol distributors make deliveries to retailers on a timely basis and no later than one week after the order date; amend KRS 243.200 to permit a quota retail package licensee or a nonquota malt beverage package licensee to transport alcoholic beverages between stores of common ownership if the licensee derives not less than 90 percent of his or her cash receipts from the sale of alcohol and pays the annual license fee; amend KRS 243.030 to create the supplemental transporter's license and establish a \$100 annual fee; amend KRS 244.040 to allow a brewer or distributor to extend credit on malt beverages sold to retailers for up to 30 days; create a new section of KRS Chapter 81A to allow standing to any person who owns property in a territory to file suit against a city that annexes any territory; amend KRS 235.125 to require that vessels documented by the Coast Guard display a number and validation sticker; amend KRS 235.210 to require documented vessels to register with the county clerk; amend KRS 235.230 to remove the requirement that owners of a marina hold the title for a boat moored there for longer than 24 hours; amend KRS 376.270 to prohibit marinas from interfering with a boat owner's right to take possession of the boat; amend KRS 243.110, 243.157, and 243.360 to make conforming changes; repeal KRS 243.075, 243.886, and 376.272; APPROPRIATION; EMERGENCY; provide a January 1, 2019, delayed effective date for certain sections.

(Prefiled by the sponsor(s).)

**BR363** - Representative Regina Huff  
(12/8/2017)

AN ACT relating to the operation of bicycles.

Amend KRS 189.287 to direct the Transportation Cabinet to include a requirement for bicycle helmets for operators and passengers under the age of 12 in the bicycle standards and safety regulations promulgated under this section.

(Prefiled by the sponsor(s).)

**BR369** - Senator John Schickel  
(12/7/2017)

Honor Julia Pile upon receiving the inaugural Beverly Nickell Raimondo Leadership Award.

(Prefiled by the sponsor(s).)

**BR370** - Representative Gerald Watkins  
(11/17/2017)

AN ACT relating to the disclosure of private cellular phone numbers.

Create a new section of KRS Chapter 367 to prohibit the marketing, sharing, or selling of wireless phone numbers of subscribers without express written consent of the subscriber; amend KRS 367.990 to create a penalty between \$1,000 and \$10,000 for each violation.

(Prefiled by the sponsor(s).)

**BR371** - Representative Gerald Watkins  
(11/17/2017)

AN ACT relating to life imprisonment for persistent felony offenders.

Amend KRS 532.080 to increase the sentence to life without the possibility of parole for offenders with three or more independent convictions for Class A or B felonies or capital offenses.

(Prefiled by the sponsor(s).)

**BR372** - Representative Gerald Watkins  
(11/17/2017)

AN ACT relating to criminal attempted murder.

Amend KRS 439.3401 to make criminal attempt to commit murder of a peace officer or a firefighter an offense for which at least 85 percent of the sentence must be served before probation or parole.

(Prefiled by the sponsor(s).)

**BR373** - Representative Gerald Watkins  
(11/17/2017)

AN ACT relating to crimes and punishments.

Create a new section of KRS Chapter 218A to apply a uniform penalty of mandatory drug treatment and community service to persons convicted of possessing certain drugs and paraphernalia; amend KRS 218A.140 to revise possession of counterfeit substances from a Class D felony to a Class A misdemeanor; amend KRS 218A.1415 to revise possession of a controlled substance from a Class D felony to a Class A misdemeanor; amend KRS 218A.1437 to lower possession of a methamphetamine precursor from a Class D felony to a Class A misdemeanor; amend KRS 218A.276 to require that defendants convicted of possession of a counterfeit substance under KRS 218A.140, marijuana under KRS 218A.1422, synthetic drugs under KRS 218A.1430, methamphetamine precursors under KRS 218A.1437, salvia under KRS 218A.1451, or drug paraphernalia under KRS 218A.500 complete a drug treatment program; amend KRS 218A.275 to require that defendants convicted of possession of a controlled substance under various sections of Chapter 218A complete a drug treatment program; amend KRS 431.078 to conform.

(Prefiled by the sponsor(s).)

**BR381** - Representative Melinda Prunty  
(12/6/2017)

Urge the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset Provision and the Windfall Elimination Provision.

(Prefiled by the sponsor(s).)

**BR385** - Representative Jim DuPlessis  
(12/6/2017)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.

Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four consecutive terms of office, not including partial terms of two years or less, and to prevent members of the House of Representatives from serving more than six consecutive terms of office, not including partial terms of two years or less, beginning with those elected in November 2018; allow legislators to resume service in the house from which they were

term-limited after two or more years have elapsed; provide ballot language; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR387** - Representative Kim King  
(12/5/2017)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House of Representatives or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission, or upon a determination by the Senate or House of Representatives or a committee of either; require separate votes for any state fiscal measure.

(Prefiled by the sponsor(s).)

**BR388** - Representative James Kay  
(12/8/2017)

AN ACT relating to ethics.

Amend KRS 7.119 to include communication made by members of the General Assembly on publicly owned computers or cell phones in the definition of records available for public inspection; amend KRS 11A.040 to prohibit a public servant from acting as an executive branch lobbyist for one year after leaving employment, and prohibit a public servant from bidding on or holding a state contract unless approved by the Executive Branch Ethics Commission; amend KRS 11A.045 to prohibit a public servant from accepting any gifts or gratuities from a person or business holding a state contract; amend KRS 11A.050 to add the financial statement filings for public servants to include August 15 and December 15, require appointees to state boards and commissions to file a financial disclosure statement on or before April 15, and require constitutional officers and candidates for constitutional office to file a copy of their tax returns with the commission; amend KRS 11A.060 to reestablish the commission as an independent, de jure municipal corporation, and change the way in which board members are appointed and removed; amend KRS 11A.070 to set out requirements for the executive director of the commission, limit his or her employment term, and require he or she be sworn in under Section 228 of the Kentucky Constitution, require the commission to employ four full-time investigators, and make all employees

of the commission independent; amend KRS 11A.080 to prohibit the commission from turning over information to other agencies, contractors, or persons, and from making public statements prior to the completion of an investigation; amend KRS 11A.110 to create an ethics tip line; amend KRS 11A.990 to make failure to disclose a financial disclosure statement or tax return as required a Class D felony and disqualify the public servant from holding public office; amend KRS 12.028 to remove the commission from the reorganization authority of the Governor; amend KRS 18A.005 to include the definition of “relative”; amend KRS 18A.155 to prohibit a relative of a sitting state legislator or cabinet secretary from being hired in the unclassified service; amend KRS 45A.095 to define “business relationship” and “family”, and prohibit a no-bid contract with a vendor having a business relationship with the Governor, Lieutenant Governor, or a member of the Governor’s Executive Cabinet or any vendor owned by them; amend KRS 45A.715 to prohibit the Department of Revenue from entering into a personal service contract that gives the Governor the authority to set out a bonus payment structure for the collection of taxes; make the former Executive Branch Ethics Commission cease to exist effective January 1, 2019; require the Attorney General, the Auditor of Public Accounts, the Secretary of State, and the Chief Justice of the Commonwealth to submit their nominees to the new Executive Branch Ethics Commission to the Governor by October 1, 2018, and require the Governor to appoint the new commissioners on or before December 1, 2018 to take effect January 1, 2019; reconstitution of Executive Branch Ethics Commission effective January 1, 2019.

(Prefiled by the sponsor(s).)

**BR389** - Senator Richard Girdler  
(12/8/2017)

Adjourn in honor and loving memory of Lewis L. “Tee” Phelps.

(Prefiled by the sponsor(s).)

**BR392** - Representative Lynn Bechler  
(12/8/2017)

AN ACT relating to organ donation.

Amend KRS 311.1953 to require the medical examiner or coroner to release identifying information and relevant postmortem examination results to a procurement organization if a decedent’s body or body part is medically suitable for transplantation or therapy; provide that Act may be known as Courtney’s Law.



(Prefiled by the sponsor(s).)

**BR398** - Representative James Kay  
(12/8/2017)

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

Propose an amendment to Section 170 of the Constitution of Kentucky increasing the homestead exemption from the current inflation-adjusted amount of \$37,600 to the full assessed value of the property for owners with a permanent and total one hundred percent service-connected disability rating by the United States Department of Veterans Affairs; make the exemption transferrable upon death to the surviving spouse; add the continued biennial inflation indexing of the homestead exemption amount; make various typographical changes of a nonsubstantive nature; state ballot question; submit to voters.

(Prefiled by the sponsor(s).)

**BR409** - Senator Julian Carroll  
(12/8/2017)

AN ACT relating to state employees.

Amend KRS 18A.110 to require the secretary of the Personnel Cabinet to promulgate administrative regulations for an internal mobility program; prohibit the program from differentiating between full-time and part-time employees in filling full-time positions.

(Prefiled by the sponsor(s).)

**BR410** - Representative Attica Scott  
(12/8/2017)

A RESOLUTION urging drug crime diversion programs.

Encourage the efforts of the criminal justice system to divert drug offenders to treatment.

(Prefiled by the sponsor(s).)

**BR411** - Representative Attica Scott  
(12/8/2017)

AN ACT relating to crimes and punishments.

Amend KRS 532.090 to establish gross misdemeanors as a new category of misdemeanor offense and set penalty range; amend various sections of KRS Chapters 500, 530, 532, and 533 to conform; amend KRS 532.100 to ensure that custody of gross misdemeanants parallels that of Class D felons; repeal KRS 431.060; amend various sections to conform.

(Prefiled by the sponsor(s).)

**BR420** - Senator John Schickel  
(12/7/2017)

AN ACT relating to an exemption for wage and hours.

Amend KRS 337.010 to include employees of amusement and recreational facilities that are open for no more than seven months in a year in the exemptions relating to wages and hours, bringing Kentucky's laws in line with the federal exemptions.

(Prefiled by the sponsor(s).)

**BR432** - Representative Steve Riggs  
(12/7/2017)

AN ACT relating to investments made by local governments.

Amend KRS 66.480, relating to investments for local governments, to remove the 20% restriction from securities and to add to the permitted investments local governments may make mutual funds, closed-end, and exchange-traded funds and funds investing in individual preferred stock or equities as long as no more than 7% of the portfolio is composed of individual equities at the time of purchase and qualifying high-quality corporate bonds if the funds are managed by a professional investment advisor; specify that these two additional investment types cannot exceed 20% of the total amount of money invested by the local government; establish an investment limit of 5% of the total amount of money invested in any one issuer unless the issuer is the U.S. government or an agency thereof, or an entity whose obligations are guaranteed by the federal government.

(Prefiled by the sponsor(s).)

**BR433** - Senator Stan Humphries  
(12/5/2017)

AN ACT relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency.

Amend KRS 96.895 to require that a portion of the Tennessee Valley Authority (TVA) in-lieu-of-tax revenue deposited in the general fund be distributed to agencies designated by counties that have TVA property located in that county or purchase power from TVA, increasing from 0% currently to 50% or a maximum of \$6,000,000; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR435** - Representative Regina Huff  
(12/8/2017)

AN ACT relating to speech-language pathologists or audiologists, and making an appropriation therefor.

Amend KRS 157.397 to require local boards of education to provide an annual salary supplement to qualified speech-language pathologists or audiologists; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR441** - Senator John Schickel  
(12/7/2017)

Adjourn in honor and loving memory of Richard L. "Dick" Roeding.

(Prefiled by the sponsor(s).)

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\* - denotes primary sponsorship of BRs  
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David A. Byerman,  
Director  
Legislative Research  
Commission

Robert Jenkins  
Deputy Director for  
Committee and Staff  
Coordination

Rob Weber  
Public Information  
Officer

Joe Cox  
Publications and Printing  
Officer

Rebecca Mullins  
Hanchett  
Editor, Typography and  
Design

Public Information Staff:  
Stephanie Newberg  
Jeff Fossett  
Steve Gatewood  
Bruce Phillips  
Bud Kraft  
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Jim Hannah  
Susan Kennedy



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