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Lawmakers receive youth vaping update

by Rebecca Hanchett
LRC Public Information

FRANKFORT—Seventy five Kentucky school districts ban tobacco use but far fewer ban vaping, which delivers nicotine and other substances through an electronic vaporizer. That will change under a new state law set to take effect on June 27.

Kentucky Tobacco Prevention and Cessation Program manager Kerri Verden told the Tobacco Settlement Agreement Fund Oversight Committee on May 1 that 2019 House Bill 11 could have an impact on 22 tobacco-free districts that don't include vaping in their tobacco-free policies, plus others. The law will ban the use of tobacco and vaping devices on public school campuses statewide beginning next fall in school districts that don't opt out of the ban.

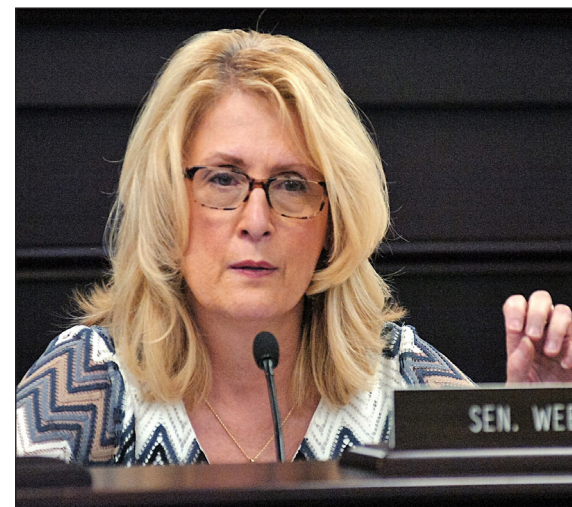
"Districts may have been waiting to see what would happen with that legislation before they chose to act or not," said Verden.

Verden said the use of e-cigarette and vaping devices in Kentucky high schools skyrocketed 200 percent between 2016 and 2018. Pod-based vaping devices that are commonly used today are "very, very addictive," she said, with some tests indicating one pod contains the amount of nicotine found in two packs of traditional cigarettes.

"This product is so addictive and prevalent, we're at the point where when we go to the schools we're not talking about prevention as much as we are cessation, even at the middle school age," she said.

While the most recent Centers for Disease Control (CDC) data from 2017 indicates that cigarette smoking among Kentucky high school

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Sen. Robin Webb, D-Grayson, asks about uses of e-cigarettes and vaping devices by youth at the May meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

Lawmakers name Jay D. Hartz as LRC Director

by Rob Weber
LRC Public Information

FRANKFORT -- Legislative leaders have named Jay D. Hartz as the next Director of the Legislative Research Commission.

Hartz, the Deputy Chief of Staff in the Senate President's Office, is a familiar figure to many in the State Capitol, where he's known for his extensive knowledge on legislative operations and policymaking. He's also known for his good humor and the colorful bow ties he

frequently favors.

When Hartz fully assumes the duties of LRC Director on June 1, he will bring nearly 25 years of experience in policy development, legislative procedure, and people management to the position.

As LRC Director, Hartz will be responsible for the performance of nonpartisan staff employed by the General Assembly and for ensuring that high quality, professional services are provided to the legislature.

"I'm humbled by the responsibilities I will

assume as Director of the Legislative Research Commission, and I look forward to building on the strengths inherent in LRC's nonpartisan staff structure," Hartz said.

House Speaker David Osborne said Hartz's background and experience give him a unique skill set to successfully lead a legislative staff.

"Throughout his career, Jay Hartz has shown great integrity and earned the respect of legislators in both chambers and both parties, as well as staff members throughout the agency,"

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New laws going on books in early summer 2019

by Jim Hannah
LRC Public Information

FRANKFORT – Most new laws approved during the Kentucky General Assembly's 2019 session will go into effect on Thursday, June 27.

That means law-abiding adults will be able to carry a concealed firearm without a permit, employers will be required to make certain reasonable accommodations for pregnant employees and electric scooters will be regulated by state law.

The Kentucky Constitution specifies that new laws take effect 90 days after the adjournment of the legislature unless they have special effective dates, are general appropriations measures, or include emergency clauses that makes them effective immediately upon becoming law. Final adjournment of the session was on March 28, making June 27 the effective date for most bills.

During the 30-day session, 786 bills and 502 resolutions were introduced, including 263 Senate bills and 523 House bills. In all, 68 Senate bills and 130 House bills became law. The governor also received six joint and concurrent resolutions. Some of the laws taking effect on June 27 include measures on the following topics:

Caller ID. House Bill 84 will prohibit telephone solicitations that misrepresent the name or telephone number in caller identification services, increase fines for second offenses and allow for civil lawsuits against violators.

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

Felony expungement. Senate Bill 57 will expand the number of Kentuckians eligible to have low-level felonies expunged from their criminal records. It will do this by expanding discretionary expungement to all Class D

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felonies with some exceptions for crimes such as stealing in office, abusing children and sexual abuse. It includes a five-year waiting period to apply for expungement, a \$250 application fee and provisions for prosecutors to object and judges to reject the applications.

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

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

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

Lobbying. Senate Bill 6 will require disclosure of executive agency lobbyist compensation. The measure will also prohibit compensation contingent on awarding of a government contract. It will provide oversight, in part, by requiring executive branch lobbyists



Senate Bill 1 sponsor Sen. Max Wise, R-Campbellsville, presents the measure on the Senate floor. Now law, SB 1 is designed to improve school safety and security across the Commonwealth.

to register and list their clients. That's already required of legislative lobbyists.

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

Pregnancy. Senate Bill 18, the Kentucky Pregnant Workers Act, clarifies employers' responsibilities when it comes to making reasonable accommodations for pregnant employees. It will make it unlawful for an employer to fail to accommodate a pregnant employee and will require employers to provide notice to employees regarding these rights.

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New laws, from page 2

Scooters. House Bill 258 will set operating standards for electric scooters and will allow the machines to legally operate much like bicycles on public streets. It also limits e-scooter speeds to no more than 20 mph.

Sex crimes. Senate Bill 67 will create the offense of sexual crimes against an animal.

Strangulation. Senate Bill 70 will make non-fatal strangulation its own felony crime under Kentucky's criminal code.

Student loan debt. House Bill 118, the Keep Americans Working Act of 2019, will prohibit someone from having an occupational license suspended or revoked because of delinquency on a student loan or work-conditional scholarship. The measure is meant to help keep people with student loan debt out of poverty and in the workforce.

Tobacco. House Bill 11 would ban the use of tobacco, e-cigarettes and vaping devices on public school campuses, in school vehicles and at school activities beginning with the 2020-21 school year. School districts would have up to three years to opt out of the ban should they choose. The individual districts not opting out will also be able to set the penalties for violating the ban.

Vaping, from page 1

students is at the “lowest it’s ever been,” said Verden—with around 1 in 7 Kentucky youth today smoking cigarettes—increased vaping likely means smoking rates are also on the rise, she said.

“We suspect the (smoking) rate has increased substantially, largely due to the introduction of very popular pod-based electronic cigarette systems,” which came on the market in 2015, she said. Verden told lawmakers that the use of vaping devices was declared an epidemic by the U.S. Surgeon General late last year.

She then played a video of U.S. Surgeon General Dr. Jerome Adams speaking about the harm that nicotine and other compounds in e-cigarettes and vaping can do to the adolescent brain. In his comments, Adams said that one-third of youth who have used e-cigarettes and



House Bill 64 sponsor Rep. Danny Bentley, R-Russell, testifies on the legislation in committee. Now law, HB 64 will allow licensed pharmacists to dispense prescription refills without authorization of the prescribing provider in emergency situations.

vaping devices have used them to vaporize and inhale marijuana. That led to comments from lawmakers on the committee, including Sen. Robin Webb, D-Grayson.

Webb asked Verden if THC—a hallucinogenic compound found in marijuana—has been found in e-cigarettes and vaping devices used by youth. Verden said it has, adding that she will relay that study data to the committee. Webb said that information would be of interest to her.

“That’d be the most disturbing to me as a policy maker,” said Webb. “I’d like to focus a little more on the illegal substances at this point, and I’d like to see the data on that. I think that is our immediate issue from a potential health side.”

Verden said youth can be “really creative”

Hartz, from page 1

Osborne said. “He is a consummate professional and possesses both the understanding of the legislative process and the institutional knowledge of the Kentucky General Assembly that we were looking for in a new LRC Director.”

Prior to serving in his current position of

Jay D. Hartz
will bring decades
of policy, legislative
procedure and
management
experience to the
position of
LRC Director.

Deputy Chief of Staff, Hartz served as the Director of Legislative Operations in the Senate President’s Office and served two terms as the Chief Clerk of the Senate, the Chief Administrative Officer for the chamber.

Hartz is Chair of the Southern Legislative Conference’s STARS Committee, a member of the Council for State Government’s Suggested State Legislation Committee and serves on the Board of Directors at the Ashbrook Center for Public Affairs.

A graduate of the Honors Program at Ashland University where he was an Ashbrook Scholar and earned the James Madison Award, Hartz went on to receive a master’s at Villanova University where he held an Earhart Fellowship.

Hartz resides in Simpsonville with his wife (Kim) and son (Alex), as well as Morgan horses and more spoiled cats than he cares to admit.

in using vaping devices with marijuana, and other drugs. “You don’t know what substances are in there, and it’s not even just marijuana – you can put any illicit substance in there, really, in any form.”

Also expressing concern with the use of vaping devices for use with illicit substances was Tobacco Settlement Agreement Fund Oversight Committee Co-Chair Rep. Myron Dossett, R-Pembroke. He asked Verden for data on what types of illicit drugs are being found in vaping devices and how access to those drugs is obtained.

“It really frightens me knowing that we have a younger generation that looks at these electronic devices as something ... cool to have in your possession. Something like this could devastate a child,” Dossett said.

2019

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LEGISLATIVE RESEARCH COMMISSION

Minutes of the 562nd Meeting

May 15, 2019

Call to Order and Roll Call

The 562nd meeting of the Legislative Research Commission was held on Wednesday, May 15, 2019, at 9:00 AM, in Room 125 of the Capitol Annex. Representative David Osborne, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative David Osborne, Co-Chair; David P. Givens, Morgan McGarvey, Dennis Parrett, Damon Thayer, Johnny Ray Turner, and Mike Wilson; Representatives Rocky Adkins, John Bam Carney, Derrick Graham, Joni L. Jenkins, Chad McCoy, David Meade, and Suzanne Miles.

LRC Staff: Christy Glass

Representative Osborne called for a motion to go into Executive Session. A motion was made by Senator Stivers and seconded by Representative Meade.

After returning from Executive Session for discussion of a personnel issue and pending litigation in another state, Representative Osborne called for a motion to approve the minutes of the December 19, 2018, meeting; accept as indicated items A. through I. under Staff and Committee Reports; refer prefiled bills as indicated and approve items B. through J. under New Business; and accept and refer as indicated items 1. through 52. under Communications.

A motion was made by Senator Thayer and seconded by Senator Wilson.

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

STAFF AND COMMITTEE REPORTS

Information requests since December 1, 2018.

Committee Activity Reports since December 1, 2018.

Report of the Administrative Regulation Review Subcommittee meetings on December 11, 2018, and January 9, February 11, March 11, and April 9, 2019.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on January 23, 2019.

Committee review of the administrative regulations by the Senate Standing Committee on Health and Welfare during its meetings on February 20 and March 11, 2019.

Committee review of the administrative regulations by the House Standing Committee on Health and Family Services during its meetings on February 21 and March 13, 2019.

Committee review of the administrative regulations by the House Standing Committee on Education during its meeting on March 12, 2019.

Committee review of the administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meeting on April 15, 2019.

Committee review of FY 2019 Small Cities Community Development Block Grant and Section 108 Loan Guarantee Program Application by the Senate Standing Committee on State and Local Government and the House Standing Committee on Local Government during its meeting on February 6, 2019.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 83** (an act relating to ground ambulance service providers and making an appropriation therefor) to **Health and Welfare and Family Services**; **BR 6** (an act relating to cruelty to equines) and **BR 23** (an act proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote) to **Judiciary**; and **BR 80** (an act relating to the expansion of gaming and making an appropriation therefor) to **Licensing, Occupations, and Administrative Regulations**.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum authorizing the creation and membership of LRC Public Pensions Working Group.

From Senator Julie Raque Adams, Senator Morgan McGarvey, Representative Randy Bridges, and Representative Derrick Graham: Memorandum requesting authorization of the organization and membership of the Affordable Housing Caucus.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Derek Lewis to the Interim Joint Committee on Natural Resources and Energy and appointing Representative Kevin Bratcher as Co-chair of the Interim Joint Committee on State Government.

From Senate President Robert Stivers and

House Speaker David Osborne: Memorandum approving the 2019 Interim Joint Committee Regular Meeting Schedule.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Senator Brandon Smith to the Interim Joint Committee on Transportation.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum regarding Legislative Research Commission Open Records Decision.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the creation and membership of the Economic Development, Small Business, and Information Technology Subcommittee.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the creation and membership of 2019 Interim Task Forces and LRC Staff Study.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the recommendation of the LRC Director Search Committee.

COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Report for the months of November and December 2018, and January, February, and March 2019. Pursuant to KRS 418.075(3).

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of December 2018, and January, February, March, and April 2019. Pursuant to KRS 42.410.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 5, 6, 7, 8, and 9 and year-to-date activity for the period of July 1, 2018, through March 31, 2019. Pursuant to KRS 42.190.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarters ending December 31, 2018, and March 31, 2019. Pursuant to KRS 154.20-150.

From the Kentucky Department of Education: FY 17-18 Efficient School Design within Kentucky's K-12 Education System. Pursuant to KRS 157.455(7).

From the Office of the Attorney General: FY 18 Annual Report of County Attorney Traffic Safety Programs. Pursuant to KRS 15.720(1)(b).

From the Auditor of Public Accounts: FY 17 Report of the Audit of the Kentucky Department of Fish and Wildlife Resources.

From the Auditor of Public Accounts: Examination of Certain Operations and Financial Activity of the Kentucky Department

of Fish and Wildlife Resources.

From the Cabinet for Health and Family Services: 2018 Child Care Advisory Council Annual Report. Pursuant to KRS 199.8983.

From the State Interagency Council: 2019 Recommendations. Pursuant to KRS 200.505.

From the Kentucky Board of Alcohol and Drug Counselors: 2018 Annual Report. Pursuant to KRS 309.0813(14).

From the Kentucky Board of Licensure for Marriage and Family Therapists: 2018 Annual Report. Pursuant to KRS 335.320(8)l.

From the Education and Workforce Development Cabinet: FY 18 Report of the Education and Workforce Development Cabinet Regarding Funding Awarded to Area Development Districts. Pursuant to KRS 147A.115(1).

From the Justice and Public Safety Cabinet, Department of Corrections: 2018 Reentry Drug Supervision Annual Report. Pursuant to KRS 439.651.

From the Kentucky Personnel Cabinet: 2018 Kentucky Group Health Insurance Board Annual Report. Pursuant to KRS 18A.226(5)(b).

From the Department of Education: 2018 Report on Local School District Administrative Expenditures. Pursuant to 2018 HB 200.

From the Finance and Administration Cabinet: 2018 Comprehensive Annual Financial Report (CAFR). Pursuant to KRS 48.800(3).

From Kentucky's Resource Center for Environmental Sustainability: FY 18 Annual Energy Management Reporting Requirements. Pursuant to KRS 160.325.

From the Auditor of Public Accounts: 2018 Report of the Audit of the Northern Kentucky Convention Center Corporation.

From the Cabinet for Health and Family Services: 2018 Annual Report of Receipt and Expenditure of State and Federal Funds to Area Development Districts. Pursuant to KRS 147A.115.

From the Cabinet for Health and Family Services: FY 18 Block Grant Program Status Report of the Low Income Home Energy Assistance Program. Pursuant to KRS 45.357.

From the Cabinet for Health and Family Services: 2018 Kentucky Elder Abuse Annual Report. Pursuant to KRS 209.005(4).

From the Energy and Environment Cabinet: FY 18 Waste Tire Program Annual Report. Pursuant to KRS 224.50-872.

From the Board of Medical Imaging and Radiation Therapy: 2018 Annual Report. Pursuant to KRS 311B.050(8).

From the Justice and Public Safety Cabinet: 2018 Child Fatality and Near Fatality External Review Panel Annual Report. Pursuant to KRS 620.055.

From the Kentucky Department of

Agriculture: 2018 Cervid Chronic Wasting Disease Surveillance Identification Program Annual Report. Pursuant to KRS 246.295.

From the Kentucky Department of Education: HB 200 (2018) Report on Local School District Administrative Expenditures.

From the Auditor of Public Accounts: Data Bulletin: Examination of the Outstanding Debt and Debt Service of the Commonwealth.

From the Auditor of Public Accounts: Report of the Statewide Single Audit of the Commonwealth of Kentucky.

From the Cabinet for Health and Family Services: 2018 4th Quarter Social Service Worker Caseload Report. Pursuant to KRS 199.641(4).

From Court Appointed Special Advocates: 2019 Biennial Report. Pursuant to KRS 620.535(3).

From the Kentucky Employers' Mutual Insurance Authority: 2018 Annual Statement.

From the Kentucky Employers' Mutual Insurance Authority: 2018 Statement of Actuarial Opinion.

From the Kentucky Personnel Board: FY 18 Annual Report. Pursuant to KRS 18A.075(6).

From the Cabinet for Health and Family Services: 2018 Child Care Advisory Council Annual Report. Pursuant to KRS 199.8983.

From the Administrative Office of the Courts: 2018 Kentucky Citizen Foster Care Review Board Annual Report. Pursuant to KRS 620.190.

From the Kentucky Employers' Mutual Insurance: 2018 Management's Discussion and Analysis with Supplementary Schedules.

From the Auditor of Public Accounts: 2018 Report of the Statewide Single Audit of the Commonwealth of Kentucky, Volume II.

From the Louisville Firefighters Pension Fund: 2019 Actuarial Report. Pursuant to KRS 65.156.

From the Finance and Administration Cabinet, Department of Revenue: 2018 Insurance Premiums Surcharge. Pursuant to KRS 136.392.

From the Kentucky Employers' Mutual Insurance Authority: 2018 Report of Independent Auditors. Pursuant to KRS 342.811.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activities of the Kentucky Employers' Mutual Insurance Company.

From the Auditor of Public Accounts: 2018 Report of the Audit of Motor Vehicle and Motorboat Taxes and Registration Fees Collected and Remitted to the Commonwealth of Kentucky by each County Clerk.

From the Kentucky Council on Postsecondary Education: 2017-18 Report on CPE and Institutional Board Members appointed from July 1, 2017, through December 31, 2018. Pursuant to HB 15 (2016).

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Health Benefit Exchange.

From the Auditor of Public Accounts: Independent External Audit, 2018 Audit Findings Report Commonwealth of Kentucky Health Benefit Exchange.

From the Auditor of Public Accounts: FY 18 Report on Compliance with Civil Rights Laws Including Agency Title VI Implementation Plans, Updates, and Compliance Reports as Required by KRS Chapter 344.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Schedule of Employer Allocations and Schedule of Pension Amounts by Employer for the Kentucky Retirement Systems.

From the Auditor of Public Accounts: FY 18 Report of the Audit of the Schedule of Employer Allocations and Schedule of Other Postemployment Benefits Amounts by Employer for the Kentucky Retirement Systems.

From the Cabinet for Health and Family Services: Social Service Worker Caseload Averages Reporting. Pursuant to KRS 199.461(4).

From the Finance and Administration Cabinet, Department of Revenue, Office of Property Evaluation: 2019 Summary of Property Assessments Exempt from Taxation. (Staff suggested committee referral: State Government.) Pursuant to KRS 133.120(6).

From Kentucky Retirement Systems: 2018 Actuarial Experience Study for the period ending June 30, 2018. Pursuant to KRS 61.670(2).

There being no further business, the meeting was adjourned.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

April 16, 2019

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee was held on Tuesday, April 16, 2019, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senator Robby Mills; Representatives Steven Rudy, Steve Sheldon, and Maria Sorolis.

Guests: Chris Brumett, Director of Asset Management, Kentucky Community and Technical College System; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Donna McNeil, Executive Director, Kentucky Infrastructure Authority; Katie Smith, Commissioner, Department for Financial Services, Cabinet for Economic Development; and Ryan

Barrow, Executive Director, Office of Financial Management.

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

Representative Thomas opened the meeting by inviting members, staff, and guests to join him in reciting the Pledge of Allegiance.

Approval of Minutes (March 19, 2019)

A motion as made by Representative Rudy to approve the minutes of the March 19, 2019 meeting. The motion was seconded by Senator Mills and approved by voice vote.

Information Items

Ms. Halloran referenced four information items. Pursuant to KRS 26A.168(1), KRS 45.793, and KRS 45.818; the Administrative Office of the Courts; the Finance and Administration Cabinet, with the Commonwealth Office of Technology reporting independently; and postsecondary institutions managing their own capital construction KRS 164A.580 transmitted quarterly capital projects status reports.

Pursuant to KRS 45.760(5), the University of Kentucky (UK) reported a \$653,900 purchase of a table-side controlled X-ray diagnostic system for UK Chandler Hospital

Pursuant to KRS 45.812(1), the Daviess County, Jefferson County, Scott County, and Taylor County School Districts reported bond issues to finance new projects and the Pikeville Independent School District reported a current refunding bond issue.

Pursuant to KRS 56.863(11), the Kentucky Asset/Liability Commission transmitted, through the Office of Financial Management, its semi-annual report.

Lease Report from the Kentucky Community and Technical College System

Mr. Brumett submitted a new lease for Jefferson Community and Technical College's (JCTC) administrative offices. JCTC has occupied the facility, which the owner will renovate, since 2001. The annual rental cost will be \$636,994, \$17.38 per square foot for just under 37,000 square feet.

A motion was made by Representative Sheldon to approve the new lease, seconded by Representative Sorolis, and approved by unanimous roll call vote.

Lease Report from the Finance and Administration Cabinet

Mr. Aubrey reported two lease modifications under \$50,000 to amortize leasehold improvements. The first was security improvements for the Cabinet for Health and Family Services' leased premises in Boyd County. \$22,604.08, the lower of the two cost estimates, will be amortized through the lease expiration date of June 30, 2025. The second was

security improvements and conversion of space into additional staff offices for the Department of Corrections in Shelby County. \$18,671, the lower of the two cost estimates, will be amortized through the lease expiration date of June 30, 2022.

Next, Mr. Aubrey submitted a lease renewal with a rental rate increase for the Transportation Cabinet's underground salt storage space, which offers relatively stable temperature and humidity levels with no water intrusion, in Jefferson County. The lease is for 151,145 square feet at \$2.25 per square foot for an annual rental cost of \$340,076.24, through June 30, 2025.

In response to queries from Representative Sheldon, Mr. Aubrey said that the stored salt in the centrally-located facility with 25 to 30 feet ceiling heights was used in areas outside of Jefferson County. Representative Thomas referenced the potential corrosion involved with salt storage.

A motion was made by Representative Sorolis to approve the lease renewal with the rental rate increase, seconded by Representative Sheldon, and approved by unanimous roll call vote.

Lastly, Mr. Aubrey submitted a new lease for the Department of Corrections in Campbell County. The department requested additional office space and the Division of Real Properties advertised with only one best and final offer received. After negotiations, the subsequent proposal was 14,702 square feet at \$20.95 per square foot for a total annual rental cost of \$308,006.92, through June 30, 2026.

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

Report from the Office of Financial Management

Kentucky Infrastructure Authority

Ms. McNeil submitted several loan requests. The City of Morehead, Rowan County, requested a \$6.34 million Clean Water State Revolving Loan Program (Fund A) construction loan for the US 60 West and KY 801 SSO Correction project. The project will address capacity issues and sanitary sewage overflows and include installation of nearly 65,500 linear feet of new sewer line, about half of which will parallel existing sewer line along US 60 to the wastewater treatment plant. The other half will form a new direct connection between the lift station on KY 801 north of I-64 to the wastewater treatment plant resulting in the addition of about twenty customers. The project also involves the construction of two replacement lift stations and rehabilitation of three lift stations. Effective since August 1, 2018 for 4,000 gallons, the respective inside and outside city monthly water rates are \$31.46 and \$37.74 and the respective inside and outside city

monthly sewer rates are \$29.76 and \$35.09. The city water rates will be evaluated and adjusted on an annual basis for the next few years. The city may implement a consumer price index (CPI) clause in the future as well. The term is 20 years at two percent.

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

The Lincoln County Sanitary District requested a \$388,400 Fund A Planning and Design loan for its estimated \$4,956,500 US 127 Corridor Sanitary Sewer Project, Phase Two. Phase Two will extend sewage service to approximately 355 residential and eight commercial customers along US 127 from Norfolk Southern Railroad to Kentucky Highway 1194. The completed Phase One received a 2018 Environmental Protection Agency Performance and Innovation in the SRF Creating Environmental Success (PISCES) Honorable Mention. The cost for 4,000 gallons, effective June 14, 2014, is \$51.00. The District has a CPI clause. The term is five years at three percent.

Representative Thomas stated he was surprised that Hustonville Elementary School could not operate its dishwasher [the prior package treatment plant could not accommodate the load] before the completion of Phase One and that the project was much needed.

A motion was made by Representative Rudy to approve the Fund A Planning and Design loan, seconded by Senator Girdler, and approved by unanimous roll call vote.

The City of Morehead, Rowan County, requested a \$6,554,200 Drinking Water State Revolving Loan Program (Fund F) construction loan, which includes the previously funded \$1,297,200 Planning and Design loan, for the Regional Water Treatment Plant. For this multi-year project, the city is anticipating Appalachian Regional Commission grants in the years 2020 and 2023 and a Community Development Block Grant in 2021 as well as additional \$19,973,800 Fund F financing in future funding cycles through 2023. KIA may offer up to \$1.3 million in principal forgiveness for the future Fund F financing. Phase One includes a new raw water intake on Cave Run Lake, Phase Two includes replacement of the 8 million gallons per day (MGD) regional water treatment plant with a 12 MGD one, and Phase Three includes replacement of the US 60 621,000 gallon storage tank with a one million gallon one along with about 4,500 linear feet of new waterline. Effective since August 1, 2018 for 4,000 gallons, the respective inside and outside city monthly water rates are \$31.46 and \$37.74 and the respective inside and outside city monthly sewer rates are \$29.76 and \$35.09. The term is 30 years at .50 percent.

A motion was made by Representative Sheldon to approve the Fund F loan, seconded by Representative Sorolis, and approved by unanimous roll call vote.

Ms. McNeil then discussed the Water Resource Information System (WRIS) dashboard links, accessed through the WRIS portal on KIA's website. The WRIS only reflects projects submitted by utilities seeking state and federal funding. If the utility is not seeking state or federal funding for a project, then the WRIS will not have a project profile. The General Assembly [Senate Bill 409 2000 Regular Session] tasked KIA with responsibility for the WRIS's management and operation and the dashboards are a quick and visual way to extract WRIS data. Once a utility updates a WRIS project profile, the information will appear on the WRIS dashboards within an hour. Ms. McNeil stated that KIA will be receiving a national award for the dashboards, unique to Kentucky, in July of this year in San Diego, California.

Ms. McNeil proceeded to demonstrate the first dashboard displaying WRIS Projects by Region. The first dashboard showed 5,163 projects delineated by status: pending or approved, under construction, or constructed and total funding needs of \$4.9 billion over twenty years, split between water and wastewater with associated graphs to show funding and project schedules for projects that were yet to be fully funded or constructed. Users could further drill down by one of the 15 area development districts, county, applicant, or project number for the same information specific to those categories. When a user would drill down by project number, then the dashboard would show a map of the project area. Users could access links to WRIS project profiles through the Pending and Approved Project Details tab and, by clicking the link on the dashboard's lower left hand corner, toggle between the WRIS Projects by Region dashboard and the WRIS Projects by Legislative District dashboard for the same project and funding information searchable by House or Senate District. Another dashboard optimized the WRIS Projects by Region dashboard for phone or tablet use.

Representative Thomas commented that similar dashboards would be useful for road or other types of projects, having served with Senator Mills on the Transportation Committee for the last two years.

In response to queries from Senator Mills, Ms. McNeil said that staff of the 15 area development districts enter WRIS data, utilizing limited direct data input by utilities, prior to evaluation by the water management planning councils which a KIA staff member routinely reviews. There are quarterly meetings and annual trainings. KIA updated the Environmental Systems Research

Institute (ESRI) platform for consistency with Geographic Information System mapping and built a black box. Ms. McNeil further stated with the \$129 million available this year for financing infrastructure projects, it would take 38½ years to fund the \$4.9 billion of requested projects. KIA is considering other funding options and has submitted its six year capital plan.

Representative Thomas commended Ms. McNeil on KIA's innovative development of the WRIS dashboard links and asked Ms. McNeil to update the committee after receiving the award.

Cabinet for Economic Development

Ms. Smith submitted a \$750,000 Economic Development Fund grant to the Todd County Fiscal Court for the benefit of Novelis Corporation. Novelis is the global leader in aluminum rolled products as well as the world's largest aluminum recycler and its manufacturing operation in Guthrie will meet market demand from the automotive industry. Novelis plans to invest over \$300 million and create 100 new full-time Kentucky resident jobs paying average hourly wages of \$38.50, including benefits. Required collateral for this grant will be a letter of credit, certificate of deposit, or other form acceptable to the Cabinet. Repayment provisions will be included in the grant agreement should the company fail to meet the job or wage requirements at each of the five annual compliance measurement dates. The project was approved by the Kentucky Economic Development Finance Authority at its March 28 meeting as well as the State Property and Buildings Commission at its April 9 meeting.

Representative Thomas commented on the scope of the facility, which he drove by to see in his neighboring district.

A motion was made by Representative Rudy to approve the grant, seconded by Representative Sheldon, and approved by unanimous roll call vote.

New Conduit Debt Issue

Mr. Barrow submitted the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (McDeane Apartments), Series 2019, clarifying that KHC conduit debt is neither a liability of KHC nor the commonwealth. The apartment complex will be on McDeane Road in Louisville. May 25 is the anticipated sale date and expected net proceeds are \$18.5 million.

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

Previously Approved Conduit Debt Issue

Mr. Barrow reported the KHC Conduit Multifamily Housing Revenue Bonds (Beecher Phase 1), Series 2019. Beecher Terrace is located in Louisville as well. The debt was issued March

5 with net proceeds of \$15.5 million.

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

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

Mr. Barrow submitted 12 school district bond issues with School Facilities Construction Commission (SFCC) debt service for new projects [in the Burgin Independent (Mercer County), Eminence Independent (Henry County), Estill County, Fayette County, Hardin County, Mason County, Meade County, Morgan County, Russell Independent (Greenup County), Taylor County, Warren County, and Webster County School Districts]. The total estimated issuance amount will be \$135.3 million, with SFCC participation of just over \$9.6 million, seven percent.

Mr. Barrow also submitted seven current refunding bond issues [Bell County (2), Covington Independent (Kenton County) (2), Dayton Independent (Campbell County), Ohio County, Pikeville Independent (Pike County) school districts] for interest cost savings. The total issuance amount will be \$9.3 million with SFCC participation of \$4.1 million, just over 44 percent.

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

Representative Thomas stated that the next committee meeting would be held Tuesday, May 14 at 1:00 p.m. in Annex Room 169, a week earlier than usual.

With there being no further business the meeting adjourned at 1:35 p.m.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

April 15, 2019

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Monday, April 15, 2019, at 2:00 p.m., in Room 129 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; Senators Alice Forgy Kerr, and Mike Wilson; Representatives Tina Bojanowski, Brandon Reed, and Steve Riley.

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

Chairman Wise called the meeting to

order and welcomed new members as well as Commissioner Wayne Lewis. Representative Riley moved to adopt the minutes of the November 20, 2018 meeting. The motion was seconded by Senator Kerr, and it passed by voice vote.

Review of Administrative Regulations

Commissioner Wayne Lewis, Kentucky Department of Education, and Dr. Jennifer Stafford, Division Director, Assessment and Accountability Support, Kentucky Department of Education, gave an overview of the regulations. The first was an amendment to 703 KAR 5:270 regarding changes to Kentucky's education accountability system.

The regulation was effective in February of 2018, but was first implemented in schools in September of 2018. It was then reviewed to determine how well implementation had gone and to recommend any changes that were needed. Suggestions for changes were brought to the Board of Education in December 2018, with a public comment period in January 2019. Passage of Senate Bill 175 of the 2019 Regular Session prompted an agency amendment, presented to members today.

The proposed regulation language brings changes to the growth indicator in elementary/middle grades, transition readiness, achievement gaps, opportunity and access, and overall accountability weights. It also deletes star rating charts from the regulation as they are unnecessary. All of these changes seek to bring further clarity to the regulation. Following a very fruitful Growth Indicator Work Group meeting this past winter, there was a recommendation to calculate growth based on observed change in student performance. Additionally, negative numbers have been removed from the growth tables included in the regulation. This makes it much easier for schools to calculate and easier for teachers, parents, and administrators to use.

Transition readiness at elementary and middle school levels was to be defined using a composite score combining all content areas and using the same student performance data as Proficiency and Separate Academic indicators. There was a recommendation to remove this indicator for elementary and middle schools because it was duplicative. At the high school level, there is a proposal to modify the regulation to consider a dual credit course grade of C as an indicator for transition readiness rather than only considering a B grade. Additionally, transition readiness can be demonstrated using a college placement examination rather than strictly a college admission examination. All of these suggestions are reflected in the proposed regulation under review.

Regarding the achievement gap, it was previously considered as a combination of "gap

to proficiency" and "gap to group." There was duplication within this indicator throughout the regulation and especially among Targeted Support and Improvement (TSI) schools. In order to simplify the system, the "gap to proficiency" measure is eliminated as an indicator. Focus will remain on "gap to group" and significant differences between groups. The regulation also provides for an equity measure. Gaps in proficiency will be used in star rating calculations. If significant achievement gaps are found in schools, those earning a 4 or 5 star rating will be reduced by 1 star.

Quality of School Climate and Safety will replace the Opportunity and Access language in order to better align with current Kentucky statute. The Kentucky Board of Education is assessing the metrics to be used to assess this, but the board will likely use perception data from surveys that measure insight to the school environment. Additionally, the Kentucky Board of Education has proposed and approved a series of locked weights for all the measures in an effort to bring clarity. The weights are necessary and serve as a signifier of the intended policy value/emphasis for each indicator. While this will eliminate the star charts from the regulation, it will not eliminate star rankings of schools.

A new reporting requirement is a result of 2019 Senate Bill 175. Following the 2018-19 and 2019-20 academic years, the commissioner must convene a committee to analyze state assessment results and examine the expected impacts, unintended consequences, and potential for schools to reach the highest rankings. Findings will be reported to the Interim Joint Committee on Education by December 1, 2019 and December 1, 2020. To accommodate these changes, the agency proposed an amendment. Representative Reed made a motion to accept the amendment, seconded by Representative Riley. The motion passed by roll call vote. There were 6 Yes votes, 0 No votes, and 0 Pass votes.

No action or motion was necessary for administrative regulation 703 KAR 5:211, which repeals the administrative regulation being replaced by 703 KAR 5:270.

House Co-chair Election

As required by statute, it was necessary for the committee to elect a House Co-chair. Representative Riley nominated Representative Reed. Representative Reed seconded the nomination. A motion was made by Representative Riley that nominations cease and Representative Reed be elected by acclamation. The motion was seconded by Representative Reed. Chairman Wise congratulated and welcomed Representative Reed as the new House Co-chair.

There being no further business, the meeting was adjourned at 2:35 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the April Meeting

April 9, 2019

Call to Order and Roll Call

The April meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, April 9, 2019, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Beau Barnes, Teachers' Retirement; Brigadier General Steven Bullard, Colonel Wayne Burd; Department of Military Affairs; Scott Majors, Board of Physical Therapy; Alicia Boyd, Mary Harville, Jennifer Luhrs, Kentucky Lottery Corporation; Ron Brooks, Brian Clark, Chris Garland, Gabe Jenkins, Kevin Kelly, Rich Storm, Karen Waldrop; Department for Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Tod Allen, Department of Education; Tim Cocanougher, Tony Cotto, Claims Commission; Barbara Borden, Scott Chapman, Jamie Eads, Vince Gabbard, John Forgy, Marc Guilfoil, Doug Hendrickson, Steve May, Mary Scollay, Mark Simmendinger, Horse Racing Commission; Stephanie Brammer-Barnes, Steve Davis, Matt Kleinert, Office of Inspector General; Robert Putt, Office of Health Data and Analytics; Julie Brooks, Monica Clouse, Department for Public Health; Jonathan Scott, Department for Medicaid Services; Laura Begin, Mary Carpenter, Elizabeth Caywood, Department for Community Based Services; Michael Abell, Sportsmen and Women United; Pete Blandford, Kentucky Quality Deer Management; Mary DeLodder, Perry McClure, Kentucky Crossbow Federation, Jamie Gray, Chet Hayes, League of Kentucky Sportsmen; Jacob Hencke, Larry Richards, Safari Club International, Judy Roberts, Michael Roberts, United Bow Hunters of Kentucky; Jean Ellen Spieles, Jim Strader, Gary Williams, Kentucky Bow Hunters Association; Joe Costa, The Red Mile; Seth DePasquale, Peter Ecabert, Martin Maline, Horseman's Benevolent and Protective Association; Clara Fenger, Dr. Andrew Roberts, North American Association of Racetrack Veterinarians; Chauncey Morris, Kentucky Thoroughbred Association; Michael Balor, Wyatt, Tarrant and Combs; Michael Buchanon, Warren County Judge Executive; Mark Guilfoyle, Wade Stone, The Medical Center of Bowling

Green; Lili Lutgens, Therapeutic Intervention Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, April 9, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION
CABINET: Teachers' Retirement System:
General Rules

102 KAR 1:163. Collection of life insurance benefits. Beau Barnes, deputy executive secretary of operations and general counsel, represented the system.

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

102 KAR 1:168. Survivor's benefits.

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

102 KAR 1:320. Qualified domestic relations orders.

A motion was made and seconded to approve the following amendment: to amend Section 7 to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

DEPARTMENT OF MILITARY AFFAIRS:
Division of Emergency Management: Disaster and Emergency Services

106 KAR 1:081. Kentucky Emergency Response Commission (KERC) Tier II reporting and fee schedule requirements; Extremely Hazardous Substance (EHS) facility planning participation requirements. Brigadier General, Retired, Steven Bullard, director of administrative services and legislative liaison, Department of Military Affairs, and Colonel Wayne Burd, assistant director for operations, represented the division.

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

106 KAR 1:091. Kentucky Emergency Response Commission (KERC) fee account grant requirements for Local Emergency Planning Committees (LEPCs).

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3, 5, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 8 to add a checklist incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

106 KAR 1:101. Kentucky Emergency Response Commission (KERC) fee account grant requirements for state agencies.

106 KAR 1:111. Kentucky Emergency Response Commission (KERC) fee account grant review committee.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

106 KAR 1:121. Kentucky Emergency Response Commission (KERC) fee account grant distribution formula.

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

BOARDS AND COMMISSIONS: Board of Physical Therapy

201 KAR 22:020. Eligibility and credentialing procedure. Scott Majors, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) restore existing language that was inadvertently deleted. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Lottery Corporation

202 KAR 3:040. Internal audit. Alicia Boyd, vice president of audits; Mary Harville, general counsel; and Jennifer Luhrs, staff attorney, represented the corporation.

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

301 KAR 2:172. Deer hunting seasons, zones, and requirements. Brian Clark, staff attorney; Rich Storm, commissioner; and Karen Waldrop, deputy commissioner, represented the department. Pete Blandford, president, Kentucky Quality Deer Management; Chet Hayes, president, League of Kentucky Sportsmen;

and Perry McClure, president, Kentucky Crossbow Federation, appeared in support of these administrative regulations. Jamie Gray, sportsman; Larry Richards, president, Kentucky Chapter, Safari Club International; Ellen Spieles, resident landowner; Jim Strader, outdoor reporter, WHAS radio; and Gary Williams, Western Kentucky bow hunter, appeared in opposition to these administrative regulations.

In response to a question by Co-Chair West, Mr. Storm stated that these administrative regulations proposed to expand Kentucky's crossbow season. The most common request from sportsmen was that Kentucky offer more crossbow opportunities. Surveys consistently demonstrated strong support for expanding Kentucky's crossbow season, and biological studies indicated that a longer season would not negatively impact wildlife resources. Buck and doe harvests were tracked based on hunting method, and data demonstrated that concerns about deer overharvesting were unwarranted. The proposal was not for a fully concurrent archery – crossbow deer-hunting season, but for a longer crossbow hunting season. Every bordering state, Southeastern state, and twenty-eight (28) states in total had a fully concurrent archery – crossbow deer-hunting season. The department had worked with stakeholders and the public since 2016 to develop the compromise established in these administrative regulations.

In response to questions by Senator Raque Adams, Mr. Storm stated that implementation of crossbow hunting during the rutting and breeding season would not diminish the deer herd in any way. The decreasing rate of hunting in Kentucky might be attributed, at least in part, to increasing rates of land leasing. Other contributing factors were an aging or otherwise-occupied population. Ms. Waldrop added that the decreasing rate of hunting might also be the result of fewer places to hunt; therefore, the department had made efforts to provide as many hunting opportunities and venues as possible, including through public, private, and leasing agreements. A crossbow had a trigger and was held horizontally but was still considered archery equipment, rather than a firearm. Crossbows had a different season from other archery equipment. Mr. Clark stated that the department preferred to use the term, "hunting method," in lieu of specific weapon designations. Senator Adams stated that materials supplied to support this proposal were misleading. The materials depicted that almost every state had a concurrent archery – crossbow season, making Kentucky an outlier; however, the Kentucky deer season began significantly earlier than in surrounding states.

Mr. Hayes stated that the League of Kentucky Sportsmen represented traditional archery hunters and crossbow hunters.

The league supported these administrative regulations without further modification because crossbow as a hunting method was growing in popularity and many league members had been led to reconsider previous opposition. The Deer Working Group reached a consensus in the development of these administrative regulations. Implementation of this proposal should not negatively impact Kentucky's wildlife resources. There were numerous opportunities for all interested stakeholders to be involved in the development of these administrative regulations. These administrative regulations would provide increased opportunities for sportsmen to make use of a sustainable Kentucky resource, which was in need of additional control in many areas. There would be no loss of hunting days for any hunting method user group, while there would be new opportunities for crossbow hunters.

Mr. Blandford stated that Kentucky Quality Deer Management wholly supported these administrative regulations. Crossbow hunting was easier for youth, smaller hunters, and those with less strength. This proposal was fair because crossbows were archery equipment, and it had been discriminatory for crossbow hunters to have fewer hunting opportunities based on hunting method.

Mr. McClure stated that the Kentucky Crossbow Federation fully supported 301 KAR 2:172 without further modification. Department biologists determined that this proposal would not be detrimental to Kentucky's deer resources. Each hunter should be allowed to use the hunting method of his or her choice.

Mr. Strader stated that he hunted with a crossbow and was not opposed to its use generally. He was opposed to a crossbow season that extended to the pre-rutting season because it would be detrimental to the buck population at a vulnerable time. Because a crossbow was advertised to shoot like a rifle and did shoot like a rifle, it was inappropriate as a hunting method during the rutting season. This issue was about money for the crossbow industry, with the result being detrimental to Kentucky's deer resources. Land leasing was primarily responsible for the decrease in hunting. He also stated that stakeholders had addressed this issue with the department ten (10) years prior, and the department, the legislature, and sportsmen had agreed to a compromise to not expand crossbow use. The department's denial of the compromise was untrue. About four (4) or five (5) compromises were considered at the meeting ten (10) years prior. One (1) of the proposed compromises was to begin the season later with five (5) extra weeks of crossbow hunting.

Representative Turner stated that he, Representative Hale, and at the time, Representative Webb, were present at that

meeting. It lasted all day, but ultimately stakeholders were unsuccessful in reaching a final agreement.

Ms. Spieles stated that Carter County's deer population had been reduced due to a recent outbreak of Epizootic Hemorrhagic Disease (EHD.) The modern crossbow was being marketed as a rifle. States that surrounded Kentucky had a much later deer season and prohibited baiting. The argument that crossbow hunting was useful for smaller or weaker hunters was a spurious one. Ms. Spieles showed a picture of an eight (8) year-old girl who had taken a buck using traditional archery equipment. Hunting was a privilege and a responsibility, not a right. The structure of Kentucky's deer season would be detrimental to deer resources. In response to a question by Co-Chair Hale, Ms. Spieles requested that the subcommittee find these administrative regulations deficient because the early deer season structure was inappropriate in a state that allowed baiting.

Mr. Richards stated that the Kentucky Chapter of the Safari Club International was opposed to these administrative regulations because they would be detrimental to Kentucky's deer resources. Deer hunting in Kentucky was a \$770 million annual event, and this proposal put that income at risk. Data from the department demonstrated that seventy-two (72) percent of Kentucky hunters would harvest one (1) deer annually. Most of the deer harvested would be killed with a firearm. Expanding the crossbow season would not increase the kill rate, nor would it improve the status of the deer resources. Many sportsmen were opposed to this proposal. The public had not had adequate opportunity to provide input in the development of these administrative regulations. For example, the public hearing was held during the workday so that those who worked and wanted to attend would have to be absent from their jobs. This proposal would increase the doe population, not the buck population, which could actually increase the rate of vehicle collisions with deer. More data and perhaps a pilot program approach was needed.

Mr. Gray stated that he was not opposed to the use of a crossbow but was opposed to such an early crossbow season. There were fawns that would still be unweaned at the beginning of the proposed crossbow season. The department should be making the reduction of the doe population a priority because most vehicle collisions involved does. Kentucky's crossbow season should begin later as part of the muzzleloader season. The deer breeding season in Kentucky was very different from the northern part of the country. The time periods for bucks to shed antlers varied from year to year.

Mr. Williams stated that bow hunting

was challenging, but crossbow use was far less challenging. The department should consider a three (3) year pilot study to increase hunting. More research was needed. Kentucky was losing traditional archery. Mr. Williams asked the subcommittee to request deferral of these administrative regulations. The department had not been supportive of traditional bow hunters.

Co-Chair Hale stated that Representative Turner had been a long-term supporter of Kentucky sportsmen. All stakeholders had been given adequate opportunity to contribute, but an agreement had not been reached at the meeting ten (10) years prior. A lot of effort and study had been made in the development of these administrative regulations. Approximately seventy (70) percent of commenters who had contacted Co-Chair Hale were in support of these administrative regulations. While he did not support all provisions of these administrative regulations, Co-Chair Hale reminded participants that this subcommittee did not approve administrative regulations.

In response to a question by Senator Raque Adams, Ms. Waldrop stated that beginning the deer season later with an extra five (5) weeks of crossbow hunting was one (1) of the compromises considered by the department. This proposal was also a compromise in that the initial plan was for a fully concurrent archery – crossbow season. Most hunters like to be out during the nice autumn weather.

In response to a question by Representative Frazier, Mr. Storm stated that, if implementation of these administrative regulations proved detrimental to wildlife resources, the department would amend requirements. For example, when Eastern Kentucky deer were struck with EHD, the department reduced hunting in that zone. Currently, over eighty (80) percent of counties had an abundance or overabundance of deer. Ms. Waldrop stated that the department had accurate data regarding deer populations in order to carefully manage the resource. Bag limits were especially effective ways to manage.

In response to a question by Co-Chair Hale, Mr. Clark stated that traditional bow hunting would not be harmed by implementation of this proposal because data in other states had not demonstrated a significant reduction in traditional bow hunting upon introduction or expansion of crossbow hunting opportunities. Ms. Waldrop stated that this proposal was biologically sustainable. Mr. Storm stated that the department was planning several deer-related working groups, including groups on regional Chronic Wasting Disease, land leasing, and baiting. All stakeholders were invited to participate.

Co-Chair West reiterated that the criteria to find an administrative regulation deficient

was established in KRS 13A.030(2)(a). An administrative regulation that was not found deficient would continue through the process.

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

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

A motion was made and seconded to approve the following amendment: to amend Section 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Hunting and Fishing

301 KAR 3:022. License, tag, and permit fees.

GENERAL GOVERNMENT CABINET:
Department of Agriculture: Office of the Commissioner

302 KAR 3:011. Repeal of 302 KAR 003:010. Clint Quarles, staff attorney, represented the department.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: General Administration

702 KAR 1:160. School health services. Todd Allen, deputy general counsel, represented the department.

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

Office of Learning Support Services

704 KAR 7:081. Repeal of 704 KAR 007:080.

PUBLIC PROTECTION CABINET:
Kentucky Claims Commission: Tax Appeals

802 KAR 1:010. Tax appeal procedures. Tony Cotto, executive advisor, and Tim Cocanougher, executive director, represented the commission.

PUBLIC PROTECTION CABINET:
Department of Insurance: Administration

806 KAR 2:092. Disclosure of local government taxes and collection fee. Tony Cotto, executive advisor, represented the department.

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

806 KAR 2:100. Disclosure of insurance

premium surcharge.

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

806 KAR 2:121. Repeal of 806 KAR 002:120 and 806 KAR 002:150.

Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020.

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

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:301. Repeal of 810 KAR 001:004, 810 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008, 810 KAR 001:009, 810 KAR 001:010, 810 KAR 001:012, 810 KAR 001:014, 810 KAR 001:015, 810 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018, 810 KAR 001:021, 810 KAR 001:024, 810 KAR 001:026, 810 KAR 001:027, 810 KAR 001:028, 810 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037, 810 KAR 001:040, 810 KAR 001:050, 810 KAR 001:060, 810 KAR 001:070, 810 KAR 001:080, 810 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110, 810 KAR 001:130, 810 KAR 001:140, 810 KAR 001:145, 810 KAR 001:150, and 810 KAR 001:300. Shawn Chapman, deputy general counsel; John Forgy, general counsel; Marc Guilfoil, executive director; and Dr. Mary Scollay, equine medical director, represented the commission. Joe Costa, president, The Red Mile, and Chauncey Morris, executive director, Kentucky Thoroughbred Association, appeared in support of these administrative regulations. Seth DePasquale, pharmacist; Peter Ecabert, general counsel, National Horsemen's Benevolent and Protective Association; Dr. Clara Fenger, veterinarian, North American Association of Racetrack Veterinarians; Marty Maline, executive director, Kentucky Horsemen's Benevolent and Protective Association; and Dr. Andrew Roberts, veterinarian, racetrack practitioners, appeared in opposition to these administrative regulations.

In response to a question by Co-Chair West, Mr. Guilfoil stated that this package of administrative regulations was in part a response to Governor Bevin's Red Tape Reduction Initiative and in part a revision of

requirements. This package reorganized and consolidated 112 administrative regulations into fifty-nine (59) administrative regulations. The consolidation made the requirements more user friendly and easier to update in the future. Requirements pertaining to medications were extensively vetted by the Rules Committee, an ad hoc committee of the commission, and were necessary for public and equine protection. The proposal was developed over a long period of time and was not a reaction to recent events in California. Stakeholders were fully engaged with the Rules Committee in the development of this package. The full Kentucky Horse Racing Commission considered these administrative regulations at the September 25, 2018 meeting, and the package was unanimously approved.

Mr. Costa stated that The Red Mile was in full support of these administrative regulations.

Mr. Morris stated that Kentucky Thoroughbred Association, which represented Keeneland and Churchill Downs, was in full support of these administrative regulations. In particular, the out-of-competition administrative regulation, 810 KAR 8:040, and the claiming races administrative regulations, 810 KAR 4:050 and 810 KAR 5:030, targeted the most vulnerable part of the horse population to ensure the safety of both horses and riders.

Mr. Maline stated that the Kentucky Horsemen's Benevolent and Protective Association was opposed to these administrative regulations because these provisions encouraged predatory claiming practices from outside interests that threatened racing in Kentucky. The new voided claiming rule offered a "warranty" to those who engaged in predatory claiming practices. There was an absence of data to support the purported welfare benefits of voided claims.

Mr. Ecabert stated that the National Horsemen's Benevolent and Protective Association was opposed to these administrative regulations. The subcommittee, on September 8, 2015, found deficient the requirements now established in 810 KAR 8:050, International medication protocol as condition of a race. Governor Beshear authorized the administrative regulation to become effective notwithstanding the finding of deficiency. The Attorney General on December 18, 2015, released the opinion that 810 KAR 8:050 was deficient because it was an unconstitutional delegation of governmental authority to private racetracks.

Dr. Fenger stated that racetrack practitioners were opposed to 810 KAR 8:010, Medication; testing procedures; prohibited practices, which established a definition for "therapeutic anabolic steroid" that did not include stanozolol, the most commonly used anabolic steroid for equine. Stanozolol was not used in actively racing horses and had been prohibited for use in actively

racing horses for over ten (10) years. By omitting stanozolol from the definition, stanozolol would become prohibited in situations other than in actively racing horses. 810 KAR 8:010 also established a violation if any drug, medication, substance, or metabolic derivative foreign to the horse was found to be in the horse upon testing. Hay, oats, and water would constitute substances foreign to a horse. All horses carried within their bodies these, and other, types of foreign substances. Trace amounts of substances, such as pharmaceuticals, were present in the environment, including in the water that a horse might drink. Violations pertaining to horses that tested positive for trace amounts of a prohibited substances were very common. The requirement for a good faith investigation in these kinds of situations had been removed. Additionally, drugs not approved by FDA were prohibited from being used or possessed at a location under the jurisdiction of the commission. Many drugs, such as vitamins, were not FDA approved. Horse racing was a \$4 billion business in Kentucky, and it was important not to jeopardize this industry. Medical labeling requirements were burdensome.

Dr. Fenger stated that racetrack practitioners were also opposed to 810 KAR 8:040, Out-of-competition testing, because certain substances would be banned for horses from birth until death. Horses would be prohibited from participating in clinical trials for drugs not yet approved by FDA, and compounded drugs would be banned.

Mr. DePasquale stated that, pursuant to 810 KAR 8:040, any compounded drug would be considered not approved by FDA; therefore, his practice as a compounding pharmacist would be ended.

Dr. Roberts stated that these administrative regulations should have been considered by the Equine Drug Committee. That committee would have discerned and corrected some of the errors in this package. The commission decided instead to send this package to ad hoc Rules Committee for consideration, probably because that committee was smaller and would comply with the commission's wishes. These requirements were very similar to those of California, which had recently experienced a spate of unfortunate incidents in the horse racing industry.

In response to questions by Co-Chair West, Mr. DePasquale stated that his pharmacy only sold compounded drugs; therefore, a ban on compounded drugs would effectively end his business.

In response to a question by Co-Chair West, Dr. Scollay stated that the voided claim rule was a welfare initiative and was not a "warranty" on a horse. The voided claim rule was intended as an incentive in the decision making of the horse's

trainer so that, for the safety of horse and rider, a horse at risk might not be raced. Stanozolol was not prohibited for use in all circumstances; it was prohibited in proximity to racing. A horse that had been administered stanozolol would not race for at least six (6) months. The commission was not being inundated with post-race positive drug-testing results. The unequivocal assertion that trace amounts of substances did not have an effect on a horse was erroneous. There was insufficient clinical evidence to support that contention. The medication labeling rule had been in place at least since 2008 and should not prove burdensome. The commission recognized a legitimate need for compounded drugs and had procedures in place to accommodate that need. The out-of-competition provisions for eligibility were unchanged in this package. The commission had to date not tested a foal, a breeding stallion, or a horse in extremis. The focus was on horses actively training and racing. The commission did not feel that it would be appropriate that an actively training and racing horse be subject to clinical trials.

Mr. Forgy stated that the international protocol as a condition for a race remained unchanged in this package. The commission planned to continue to meet with stakeholders. Kentucky had not used the international protocol as a condition for a race because there had not been a racetrack that had opted to conduct a furosemide-free race. It was possible that the international protocol as a condition for a race would be repealed by the commission.

In response to questions by Co-Chair West, Mr. Forgy stated that non-FDA-approved substances were prohibited, except as approved by the commission. Dr. Scollay stated that FDA had guidelines for the use of compounded products. The commission would act in compliance with those guidelines on a per-substance basis.

In response to a question by Co-Chair West, Mr. Guilfoil agreed that the commission would continue to work with stakeholders to avoid any unintended consequences that might result from these administrative regulations. The commission intended to protect Kentucky's signature industry.

General

810 KAR 2:001. Definitions.

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.

810 KAR 2:010. Racing commission and administrative staff.

A motion was made and seconded to

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

810 KAR 2:020. Thoroughbred and flat racing officials.

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

810 KAR 2:030. Chemical dependency.

In response to questions by Co-Chair West, Mr. Chapman stated that the proposed oral amendment changed the word, "or," to the word, "and," in two (2) locations. This amendment applied to individuals who might be under the influence of intoxicants while engaged in activities for which they hold a license and while the individuals are on association grounds.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to clarify that individuals who were prohibited from being under the influence of intoxicants while engaged in activities for which they hold a license and while on association grounds. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:040. Stewards.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:050. Judges and Standardbred racing officials.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 4, 6, 7, 12, 13, 16, 19 through 21, and 24 through 26 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:060. Owners' authorized agents and jockey agents.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 5; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without

objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:070. Thoroughbred and other flat racing associations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 6, 11, 16, 20 through 22, 27 through 29, and 34 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 2:080. Standardbred racing associations.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 7, 8, 11, 14 through 17, 19, 21, 22, 24 through 28, and 31 through 33 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Licensing

810 KAR 3:001. Definitions.

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

810 KAR 3:010. Licensing of racing associations.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to establish when renewal applicants and applicants proposing substantial changes in ownership shall be charged an investigation fee and how the fee shall be paid; and (2) to amend Sections 1 through 5, 8, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 3:020. Licensing of racing participants.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph; Sections 2 through 6, 10, 11, 15, 22, 24; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 6 to include all of the licensure categories and fees listed in the application form; and (3) to amend Section 24 and the Licensing Application form to: (a) only require the last four (4) digits of the applicant's social security number; and (b) update payment provisions. Without objection, and with agreement of the

agency, the amendments were approved.

810 KAR 3:030. Licensing totalizator companies.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4, 7, 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to establish when renewal applicants and applicants proposing substantial changes in ownership shall be charged an investigation fee. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 3:040. Advance deposit account wagering.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to establish when renewal applicants and applicants proposing substantial changes in ownership shall be charged an investigation fee; and (2) to amend Sections 1 through 4, 8 through 10, and 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.

810 KAR 3:050. Simulcast facilities.

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

Flat and Steeplechase Racing

810 KAR 4:001. Definitions.

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

810 KAR 4:010. Horses.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, 9 through 11, and 15 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 7 and to delete provisions on which the commission had not yet taken official action. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:020. Weights.

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

810 KAR 4:030. Entries, subscriptions, and declarations.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 5, 8 through 11, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:040. Running of the race.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 6, 10, 12 through 15, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:050. Claiming races.

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

810 KAR 4:060. Objections and complaints.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:070. Jockeys and apprentices.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 6 through 12, and 14 through 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 4:080. Steeplechase racing.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3 through 6, and 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.

810 KAR 4:090. Owners.

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

810 KAR 4:100. Trainers.

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

Standardbred Racing

810 KAR 5:001. Definitions.

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

810 KAR 5:010. Registration and identification of horses.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2, 4, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:020. Eligibility and classification.

810 KAR 5:030. Claiming races.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to clarify that it is the "title" to the horse that shall be transferred back to the owner if a claim is voided; and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 3 through 6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:040. Farm, corporate, or stable name.

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

810 KAR 5:050. Stakes and futurities.

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

810 KAR 5:060. Entries and starters.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 5, 9, 10, 14, 17, 20 through 22, 25, 27, and 28 to comply with the drafting and formatting requirements of KRS Chapter 13A and for clarity. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:070. Running of the race.

A motion was made and seconded to

approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 5, 8, 9, 14, 17, 18, 27, 30, 31, 34, 35, 43, and 49 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 5:080. Harness racing and county fairs.

A motion was made and seconded to approve the following amendments: to amend Sections 10, 15, and 18 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Pari-Mutuel Wagering

810 KAR 6:020. Calculation of payouts and distribution of pools.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, 9, 14, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Incentive and Development Funds

810 KAR 7:010. Backside improvement fund.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:020. Kentucky thoroughbred breeders' incentive fund.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3 through 5, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to delete the requirement that horses earning awards at a Kentucky race track through any component other than the claiming component during the same calendar year shall not be eligible for the Kentucky claiming component. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:030. Kentucky thoroughbred development fund.

810 KAR 7:040. Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 5, 6, 11, and 22 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 7:070. Violations, discipline, disputes, and investigation.

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

Medication Guidelines

810 KAR 8:010. Medication; testing procedures; prohibited practices.

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 3, 6, 10 through 12, 15, 17 through 21, and 23 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

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

810 KAR 8:030. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4 through 6, 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 5, 6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 8:050. International medication protocol as condition of a race.

810 KAR 8:060. Post-race sampling and

testing procedures.

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

Hearings and Appeals

810 KAR 9:010. Hearings, reviews and appeals.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 and 3 through 5; and 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.

Harness Racing

811 KAR 1:301. Repeal of 811 KAR 001:010, 811 KAR 001:015, 811 KAR 001:020, 811 KAR 001:025, 811 KAR 001:030, 811 KAR 001:035, 811 KAR 001:037, 811 KAR 001:040, 811 KAR 001:045, 811 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060, 811 KAR 001:065, 811 KAR 001:070, 811 KAR 001:075, 811 KAR 001:080, 811 KAR 001:085, 811 KAR 001:90, 811 KAR 001:093, 811 KAR 001:095, 811 KAR 001:100, 811 KAR 001:105, 811 KAR 001:110, 811 KAR 001:115, 811 KAR 001:120, 811 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150, 811 KAR 001:185, 811 KAR 001:215, 811 KAR 001:220, 811 KAR 001:225, 811 KAR 001:230, 811 KAR 001:240, 811 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285, 811 KAR 001:290, and 811 KAR 001:300.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:301. Repeal of 811 KAR 002:015, 811 KAR 002:020, 811 KAR 002:030, 811 KAR 002:035, 811 KAR 002:040, 811 KAR 002:045, 811 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065, 811 KAR 002:070, 811 KAR 002:075, 811 KAR 002:080, 811 KAR 002:085, 811 KAR 002:090, 811 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100, 811 KAR 002:105, 811 KAR 002:110, 811 KAR 002:130, 811 KAR 002:140, 811 KAR 002:150, 811 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185, 811 KAR 002:190, 811 KAR 002:200, and 811 KAR 002:300.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: Certificate of Need

900 KAR 6:075 & E. Certificate of need nonsubstantive review. Steve Davis, inspector general, and Matt Kleinert, deputy general counsel, represented the division. Michael Baker, attorney, Wyatt, Tarrant, and Combs, appeared in support of this administrative regulation.

Michael Buchanon, judge executive, Warren County; Mark Guilfoyle, attorney, The Medical Center; and Wade Stone, executive vice president, Medical Center of Bowling Green, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Mr. Davis stated that this administrative regulation removed three (3) categories of services commensurate with House Bill 444 from the 2018 Regular Session of the General Assembly. This administrative regulation also provided an expedited review for a Class I ambulance provider applicant in a county without an ambulance provider or with only one (1) ambulance provider that is not publically owned or operated. A county with only one (1) ambulance provider and more than 50,000 citizens might be at risk were that one (1) ambulance provider to go out of business for some reason. It was important to establish opportunities for competition, especially in situations in which the ambulance provider was directly affiliated with a local hospital. There had been instances of an ambulance provider passing closer hospitals in order to deliver patients to an affiliated hospital. This administrative regulation also addressed cost control issues that were sometimes related to a single ambulance provider. The Certificate of Need process tended to be highly contentious. Often a holder of a Certificate of Need would go to significant expense in attempts to prevent additional Certificates of Need from being approved within the certificate holder's service area. The cabinet used summaries from a report created by the Pegasus Institute to study the policy ramifications of single providers and lack of competition. The cabinet recognized that there were limitations and issues with the report.

In response to questions by Senator Raque Adams, Mr. Davis stated that, after this administrative regulation was initially filed in August 2018, a Certificate of Need applicant requested a hearing. That hearing was conducted by a hearing officer to determine if nonsubstantive review was appropriate. That hearing officer misinterpreted provisions of this administrative regulation; therefore, as part of the Statement of Consideration process, the cabinet further amended this administrative regulation to clarify the provisions that were misinterpreted by the hearing officer. Mr. Kleinert stated that it was inappropriate for the cabinet to comment on pending litigation. Senator Raque Adams stated that this subcommittee should not be asked to consider an administrative regulation with pending litigation. Mr. Kleinert stated that the litigation could not proceed unless this administrative regulation continued through the amendment process.

In response to questions by Co-Chair Hale, Mr. Davis stated that information related

to patients being driven past closer hospitals in order to be transported to a hospital affiliated with the ambulance provider came from letters, reports, and public comments received during this administrative regulation's public comment period. There were reports that patients who requested to be transported to a specific hospital were in some cases transported to the facility affiliated with the ambulance provider notwithstanding the patient requests.

In response to a question by Co-Chair West, Mr. Baker stated that he represented the Certificate of Need applicant in the pending litigation. This did not represent a second administrative regulation. This administrative regulation had been amended in response to public comments during the normal administrative regulation process. This administrative regulation had been deferred from consideration by this subcommittee twice. Pending litigation should not prevent this administrative regulation from being considered by this subcommittee. This administrative regulation should not be found deficient by this administrative regulation because KRS 216B.095(3)(f) authorized the cabinet to promulgate an administrative regulation to establish additional categories of nonsubstantive review. Nonsubstantive review did not mean that a Certificate of Need was not required. Only four (4) states, including Kentucky, required a Certificate of Need for an ambulance provider. Statistics from the Kentucky Board of EMS demonstrated that in 2017 there were 5,585 patient transports in the provider area at issue. Of those, only 1,713 were transported to the nearer hospital; the remainder were transported to the hospital with which the ambulance provider was affiliated.

Senator Raque Adams stated that, separate from issues with specific providers, there were significant concerns regarding this administrative regulation. The Statement of Consideration explained that the Amended After Comments version was to clarify provisions in light of a recent misinterpretation by a hearing officer. This administrative regulation appeared to be a back channel to support a specific provider.

Judge Buchanon stated that the citizens and taxpayers of Warren County opposed this administrative regulation because it would have an immediate negative impact on the county's citizens and businesses. There was not a current health care crisis in Warren County; however, implementation of this administrative regulation might cause such a health care crisis, which would force local government to establish an ambulance provider tax. The report from the Pegasus Institute was widely disputed, and much of the data it contained was false or misleading. The current response time for the ambulance provider was better than the national

average. The executive branch should not have the authority to impose a tax by administrative regulation to address a problem that didn't exist in Warren County. This was an effort to support a specific provider.

Mr. Stone stated that The Medical Center served South Central Kentucky for ninety-three (93) years. The Medical Center treated patients regardless of ability to pay. The affiliated ambulance provider had provided excellent service to the area for forty (40) years. The report from the Pegasus Institute was widely disputed. The ambulance provider respected and honored patient choice during patient transports; however, not all hospitals offered the same services. Patients were transported to the hospital that offered the services necessary. For example, Tristar Greenview hospital did not offer obstetrics and other services. Every ambulance provider transport complaint had been investigated, and none of the complaints had been substantiated in forty (40) years. The issue was that a Tennessee-based, for-profit hospital intended to enter the ambulance provider business in conjunction with a political favor. The subcommittee should find this administrative regulation deficient.

Mr. Guilfoyle stated that this was the second administrative regulation on this topic. There were two (2), not one (1), licensed ambulance providers in Warren County; therefore, this administrative regulation did not apply. The hearing officer determined that this administrative regulation did not apply because there were two (2) ambulance providers. The cabinet then amended this administrative regulation to override the hearing officer's determination. The cabinet was attempting to support the applicant through amending this administrative regulation. The pending litigation would be affected by the determination of this subcommittee. This was a blatant case of special legislation. The applicant filed litigation the day after the cabinet filed this emergency administrative regulation; however, LRC did not post the administrative regulation for five (5) days.

In response to a question by Co-Chair West, Mr. Davis stated that the cabinet did not have nefarious intent pertaining to this administrative regulation. The cabinet's goal was broad, and this administrative regulation was not intended only to address the Warren County situation in particular. This was done to address community concerns and to support competition, which tended to improve patient health care outcomes.

A motion was made by Senator Raque Adams to find this administrative regulation deficient based, not on policy toward any specific provider, but based on the process. Senator Clark seconded the motion and stated that, if the CON process needed to be changed, that needed to

be done through a statutory, not a regulatory process. A roll call vote was taken. There being four (4) votes to find the administrative regulation deficient and three (3) votes against finding the administrative regulation deficient, the motion failed. Representative Frazier explained her no vote by stating that she wished to have the litigation in this matter continue through the court system. Co-Chair West explained his no vote by stating that this was one (1) of the hardest issues for this subcommittee, but the matter did not seem to fall within the criteria established in KRS 13A.030(2)(a) for a finding of deficiency.

Office of Health Data and Analytics:
Division of Analytics: Data Reporting and Public Use Data Sets

900 KAR 7:030. Data reporting by health care providers. Robert Putt, executive director, represented the division.

Division of Health Benefit Exchange:
Kentucky Health Benefit Exchange

900 KAR 10:021. Repeal of 900 KAR 010:010, 900 KAR 010:020, and 900 KAR 010:110. Robert Putt, executive director, represented the division.

Department for Public Health: Division of Maternal and Child Health: Kentucky Birth Surveillance Registry

902 KAR 19:010. Kentucky Birth Surveillance Registry. Julie Brooks, regulation coordinator, and Monica Clouse, program coordinator, represented the division.

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

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

902 KAR 20:076. Repeal of 902 KAR 020:073. Stephanie Brammer – Barnes, regulation coordinator, represented the division.

Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:820 & E. Disproportionate share hospital distributions. Jonathan Scott, regulatory and legislative liaison, represented the division.

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

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Protection and Permanency: Child Welfare

922 KAR 1:140. Foster care and adoption permanency services. Laura Begin, regulation coordinator, and Elizabeth Caywood, deputy commissioner, represented the division.

922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

922 KAR 1:400. Supporting services.

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

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

Daycare

922 KAR 2:160 & E. Child Care Assistance Program.

Other Business: Co-Chair West stated that the Administrative Regulation Review Subcommittee, which was a statutory committee, operated differently than most other legislative committees. Administrative regulations implemented statutes that had already passed through the legislature as bills. Rather than approving administrative regulations, this subcommittee reviewed, commented on, negotiated amendment to, and asked questions about administrative regulations as a component of legislative oversight.

The following administrative regulations were deferred or removed from the April 9, 2019, subcommittee agenda:

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

16 KAR 3:011. Repeal of 016 KAR 003:010, 016 KAR 003:020, 016 KAR 003:030, 016 KAR 003:040, and 016 KAR 003:050.

16 KAR 3:090. Certifications for advanced educational leaders.

STATE BOARD OF ELECTIONS: Forms and Procedures

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

FINANCE AND ADMINISTRATION: Teachers' Retirement System: General Rules

102 KAR 1:060. Refunds. Beau Barnes, deputy executive secretary of operations and general counsel, represented the system.

Mr. Barnes requested to defer consideration of this administrative regulation to the May subcommittee meeting. A motion was made and seconded to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, the deferral request was approved.

FINANCE CABINET: Department for Facilities and Support Services: State-Owned

Buildings and Grounds

200 KAR 3:020 & E. Use of State-owned facilities and grounds.

BOARDS AND COMMISSIONS: Board of Accountancy

201 KAR 1:290. Standards of practice.

201 KAR 1:310. Expungement of minor violation.

Board of Social Work

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

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

202 KAR 7:520. Allocation of block grant funding assistance for emergency medical services.

202 KAR 7:575. Posting of fee schedules of licensed ambulance providers.

TRANSPORTATION

CABINET: Department of Vehicle Regulation: Division of Driver Licensing

601 KAR 2:030 & E. Ignition interlock.

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

704 KAR 8:060. Required academic standards for social studies.

LABOR CABINET: Department of Workplace Standards: Department of Workers' Claims

803 KAR 25:270 & E. Pharmaceutical formulary.

PUBLIC PROTECTION CABINET: Department of Insurance: Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

Kentucky Department of Financial Institutions: Administration

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

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:111. Medically managed intensive inpatient withdrawal management.

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

907 KAR 1:022. Nursing facility services and intermediate care facility for individuals with an intellectual disability.

907 KAR 1:330. Hospice services.

907 KAR 1:340. Reimbursement for hospice services.

907 KAR 1:441. Repeal of 907 KAR 001:436.

907 KAR 1:755. Preadmission Screening and Resident Review Program.

Department of Medicaid Services: Division of Program Integrity

907 KAR 5:005. Health Insurance Premium

Payment (HIPP) Program. Jonathan Scott, regulatory and legislative liaison, represented the division. Lili Lutgens, licensed attorney and licensed clinical social worker, Therapeutic Intervention Services, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Ms. Lutgens stated that Therapeutic Intervention Services was opposed to this administrative regulation because several changes were needed. Many states had adopted the Health Insurance Premium Payment (HIPP) Program, which was a successful and important program. Most of these situations involved children who had been determined by a medical review panel to be permanently disabled and qualified for Medicaid but with parents who additionally had access to employer-provided healthcare. By making this program mandatory, recipients could be punished because failure to comply with narrow deadlines could cause a termination of Medicaid benefits. This was another instance that created uncertainty for Kentucky health care providers and, in some cases, disincentivized providers from participating in the Medicaid program. Individuals who participated in the supports for community living waiver program were especially at risk because they could additionally lose housing funding if their benefits were terminated. Billing private insurance before Medicaid was administratively complicated. Ms. Lutgens requested that the division work with stakeholders to correct some of these problems.

Mr. Scott requested to defer consideration of this administrative regulation to the May subcommittee meeting. A motion was made and seconded to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, the deferral request was approved.

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

908 KAR 1:341. Repeal of 908 KAR 001:340.

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

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

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

Office for Children with Special Health Care Needs

911 KAR 1:010. Application to office for children with special health care needs clinical programs.

911 KAR 1:020. Billing and fees.

911 KAR 1:060. Office for children with special health care needs medical staff.

911 KAR 1:071. Repeal of 911 KAR 001:070

and 911 KAR 001:080.

Department for Community Based Services:
Division of Family Support: K-TAP, Kentucky
Works, Welfare to Work, State Supplementation
921 KAR 2:015 & E. Supplemental programs
for persons who are aged, blind, or have a
disability.

The subcommittee adjourned at 4:55
p.m. The next meeting of the subcommittee is
tentatively scheduled for May 14, 2019, at 1 p.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes of the 2nd Meeting of the 2019 Interim

May 1, 2019

Call to Order and Roll Call

The 2nd meeting of the Tobacco Settlement
Agreement Fund Oversight Committee was held
on Wednesday, May 1, 2019, at 10:00 AM, in
Room 129 of the Capitol Annex. Representative
Myron Dossett, Chair, called the meeting to
order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-
Chair; Representative Myron Dossett, Co-Chair;
Senators Paul Hornback, Dennis Parrett, Robin L.
Webb, and Whitney Westerfield; Representatives
Kim King, Phillip Pratt, Brandon Reed, and
Dean Schamore.

Guests: Warren Beeler, Executive Director,
Governor's Office of Agricultural Policy (GOAP),
Bill McCloskey, Deputy Executive Director,
GOAP, and Kerri Verden, Program Manager,
Cabinet for Health and Family Services.

LRC Staff: Stefan Kasacavage, Nathan
Smith, Kelly Ludwig, and Rachel Hartley.

Senator Embry was nominated to the
position of co-chair of the committee. After a
motion was made and seconded, the nominations
ceased. Upon roll call vote, the motion passed
with four yes votes and Senator Embry assumed
the chair.

Governor's Office of Agricultural Policy Report

Warren Beeler discussed the annual
allocation of funds by county. The funds
increased in 2019 due to settled legal issues. Mr.
Beeler also discussed his schedule for the month
of May.

Bill McCloskey described the Agricultural
Development Board's projects for April under
the program. Mr. McCloskey highlighted
programs including the County Agricultural
Investment Program (CAIP), Deceased Farm
Animal Removal, Shared-use Equipment, and
Youth Agriculture Incentives Program.

Requested program amendments discussed
included:

Scott County Conservation District

requested an additional \$75,000 in Scott County
funds for CAIP. The board recommended
approval, which would bring the program total
to \$255,000.

Jessamine County Future Farmers of
America Alumni Association requested an
additional \$50,000 in Jessamine County funds for
CAIP. The board recommended approval, which
would bring the program total to \$150,000.

Northern Kentucky Cattle Association
requested an additional \$2,880 in Boone County
funds for CAIP. The board recommended
approval which would bring the program total to
\$92,638.

Projects discussed included:

Litsinger Enterprises was approved for up
to \$11,783 in state funds to implement water
management practices on its farm in McCracken
County.

Sustainable Harvest Farm was approved for
up to \$8,300 in state funds to implement water
management practices on its farm in Laurel
County.

Imel's Greenhouse was approved for up to
\$74,588 in state funds to examine the effectiveness
of various water management practices at their
greenhouse in Greenup County.

The Kentucky Queen Bee Breeders
Association was approved for \$5,554 in state
funds for improving Kentucky apiary stock and
disease traceability.

Tobacco Prevention and Cessation Program

Kerri Verden stated smoking has increased
among Kentucky adults from 24.5 percent in 2016
to 24.6 percent in 2017. The slight increase may
be due to electronic cigarette users transferring
to conventional tobacco use. The youth smoking
rate has decreased from 16.9 percent in 2015 to
14.3 percent in 2017. However, it is suspected
that since then, the youth smoking rate has
increased significantly due to the introduction
of pod-based electronic cigarettes in 2015. The
youth smoking rate and adult smoking rate are
higher than the national smoking rate of 8.8
percent.

Nationally, conventional tobacco use
among 10th graders decreased more than 80
percent between 2000 and 2018 and smokeless
tobacco decreased 45 percent since 2010. From
2017 to 2018, electronic cigarette use increased
66 percent. In Kentucky, electronic cigarette use
increased 200 percent from 2016 to 2018.

In response to the increased tobacco use,
the Kentucky Tobacco Prevention and Cessation
Program (KTPC) convened a workgroup in
February 2019 to form a coordinated response
between all tobacco control partners, including
the Kentucky Center for Smoke-Free Policy, the
American Lung Association, American Heart

Association, American Cancer Society, and
many others. At the request of several school
superintendents, KTPC staff, in conjunction
with the University of Kentucky's BREATHE
program, have been presenting to K-12
students in Kentucky. KTPC will partner with
the Kentucky Center for Smoke-Free Policy to
develop evidence-based peer-to-peer prevention
and educational programs, and KTPC will also
partner with the Department of Education to
develop educational modules to educate teens,
parents, and teachers.

The 2019 General Assembly recently passed
and Governor Bevin signed HB 11. KTPC is
excited about the potential for the bill, but is
concerned about the impact of the three-year opt
out period. KTPC will focus on lending technical
assistance to those school districts that choose to
adopt the tobacco-free school policies.

The Tobacco Retailer Underage Sales
Training is a joint campaign between KTPC,
the Department for Behavioral Health, Division
of Developmental and Intellectual Disabilities,
and Alcoholic Beverage Control. The training is
provided free of charge to retailers and provides
them with an understanding of the law and ways
to address youth that attempt to bypass legal
restrictions to purchase tobacco. More than
6,000 retailers have been trained in Kentucky.

The United States Department of Housing
and Urban Development (HUD) smoke-free rule
in public housing went into effect in February
2017. The rule required public housing agencies
to adopt a smoke-free policy by July 2018.

In response to a question from
Representative Schamore, Ms. Verden stated
only HUD-owned properties must abide by the
smoke free rule. This does not include Section 8
housing because they are privately owned.

KTPC received \$3.77 million in master
settlement funds in the 2018-2019 fiscal year.
More than half of the funds were used to support
efforts in the local community. An additional 25
percent was used on media to promote cessation
and prevention.

In response to a question from Senator
Webb, Ms. Verden stated any illicit substance can
be used in the pod-based electronic cigarettes.
KTPC is working on a project with community
health centers to include tobacco prevention
in substance abuse programs. More than 90
percent of substance abusers are also tobacco
users. When substance abuse is treated along
with tobacco use, the success rate is significantly
higher.

In response to a question from Representative
King, Ms. Verden stated administrative positions
are funded, but are vacant due to a lengthy hiring
process.

In response to a question from
Representative Reed, Ms. Verden stated the

KTPC has a mass media campaign annually from a grant received from the Centers for Disease Control and Prevention (CDC). The CDC issues a report to KTPC once the campaign has ended.

Documents distributed during the meeting are available in the LRC Library and at www.lrc.ky.gov.

There being no further business, the meeting was adjourned.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

April 22, 2019

Call to Order and Roll Call

The 3rd meeting of the Public Pension Oversight Board was held on Monday, April 22, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jim DuPlessis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Dennis Parrett and Mike Wilson; Representatives Joe Graviss, Jerry T. Miller, Russell Webber, and Buddy Wheatley; J. Michael Brown, John Chilton, Mike Harmon, and James M. “Mac” Jefferson.

Other Legislators Attending: Representative Derrick Graham.

Guests: David Eager, Executive Director, Kentucky Retirement Systems; Danny White, GRS Retirement Consulting.

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

Approval of Minutes

Senator Higdon moved that the minutes of the March 25, 2019 meeting be approved. Senator Parrett seconded the motion, and the minutes were approved without objection.

2019 KRS Actuarial Experience Study Results

David Eager, Kentucky Retirement Systems (KRS) and Danny White, GRS Retirement Consulting (GRS) presented. Mr. Eager opened his comments by noting the recently completed experience study by GRS, which is a statutorily required review of assumptions and covered the period of June 30, 2018 back to June 30, 2013. He reminded the oversight board that KRS had reviewed economic assumptions during 2017, which resulted in a much higher contribution rate. This recent study focused more on demographic assumptions. Mr. Eager stated the KRS board was considering more frequent studies of both economic and demographic assumptions in the future.

Mr. Eager reviewed the actuarial valuation process, the data and assumptions used, and the

ultimate output calculated. Results are dependent on a mix of known data points, such as the member's age, current salary, gender, and service to date, as well as some assumptions that must be made about the future, such as investment returns, future salary increases, retirement dates, and death, disability, or termination rates. He provided an example member scenario for the Kentucky Employee Retirement System (KERS), County Employee Retirement System (CERS), and State Police Retirement System (SPRS).

Danny White, GRS, summarized the recent actions by the KRS board with regards to the 2018 experience study. The board had adopted the recommendation by GRS from the investigation. The new assumptions will be used in the upcoming 2019 valuation, which will determine the required contribution rates of KERS and SPRS for the 2021 and 2022 fiscal years. Regarding CERS, the 2019 valuation would determine only the 2021 contribution rate.

Mr. White discussed the importance of the experience study and magnitude of underlying assumptions used in the process. Assumptions are not static and should change periodically to reflect new information, such as mortality expectancies, changes in retirement patterns, terminations, as well as evolving best practices. As to demographic assumptions, recent experience provides strong guidance. He discussed the importance of actuarial assumptions in determining contribution rates but said that the assumptions themselves do not change the ultimate cost, but actual experience will. The assumptions represent an educated expectation or estimate, but the actual cost is determined by actual retirement ages, investment returns, and life expectancy.

Mr. White reviewed the principle assumptions reviewed during the recent experience study, which fell under two primary categories: economic assumptions and demographic assumptions. Economic assumptions had been more thoroughly reviewed in 2017, so they were revisited and revalidated. Regarding the demographic assumptions, this study was the first review since 2013, so a much deeper dive was conducted. He reviewed several of the demographic assumptions reviewed, which included mortality, plan turnover, and likelihood of disability.

Mr. White provided a summary of the material recommendations from the experience study. For all systems, life expectancy was increased and the mortality assumption used was revised to include an explicit assumption for improvement of life expectancy for future retirees. With regards to the CERS hazardous plan, the rate of turnover before retirement was reduced to reflect actual results. The expected salary increases for individuals and rate of

disability incidence were adjusted slightly for a few plans.

In response to a question from Representative DuPlessis with regards to recent reports in the popular press about decreasing life expectancy, Mr. White indicated that much of that decrease is actually being seen in the mid-life range of the population, which is the result of increased opioid use, obesity, and other factors. However, when looking at later stages of life and retired individuals, given the advancement of pharmaceutical benefits, life expectancy has been increasing.

Mr. White gave an update on the assumed rate of return for the KRS charts and referenced a recent survey conducted by the National Association of State Retirement Administrators in February of 2019, which showed the median investment return assumption across plans had decreased from 7.46 percent to 7.25 percent. As to the current experience study, GRS is not recommending changes.

In response to a question from Senator Higdon regarding how often mortality is reviewed and recent changes, Mr. White stated that the mortality tables for KRS had not changed since 2013.

Mr. White moved into a discussion of mortality rates and recommendations for the KRS plans. He shared a slide from the National Vital Statistics System that reported mortality rates by each state. Even within states, mortality rates can differ fairly dramatically by geographical region and factors such as education, race, and professional occupation.

Mr. White outlined two primary considerations an actuary makes when setting mortality rates: (1) identifying current life expectancy and (2) anticipating improvement of life expectancy. Identifying current life expectancy is data dependent, and a plan the size of KERS has a statistically significant number of retirees to determine such data with good confidence. The anticipated improvement in life expectancy requires national data and involves the actuary trying to anticipate the rate of improvement or expected trend. With regards to setting KRS assumptions, GRS used actual data to develop a base mortality, or current life expectancy, while a national mortality table would be used to build in activated improvement. Mr. White reviewed several charts that compared KRS' prior assumptions versus actual experience and the new recommended assumption for current life expectancy for males and females.

In response to a question from Senator Higdon with regards to how assumptions are set and the impact they can have on contribution rates, Mr. White noted that some assumptions can have a larger impact than others and referenced the payroll growth assumption's impact on the

KERS plan's contribution rates. In response to a follow-up question regarding if KRS mortality rates had been set artificially low, Mr. White was hesitant to give an opinion without being able to look more closely at the data from 2013, but noted that even GRS had set assumptions in the past that looked very conservative years later. He said it is difficult to assume or estimate what is going to happen.

In response to a question from Representative DuPlessis regarding the use of a graduated scale with an anticipated improvement in other states, Mr. White stated that it was becoming more common practice. A reason was the timing of experience studies and a desire to see smaller incremental changes in the future. Using a flat rate has led to bigger jumps, similar to what KRS is adopting, while using the graduated scale should result in only minor changes in the future.

Mr. White summarized the mortality recommendations GRS made as a result of the study. A new base table, which was based on actual KRS experience, would be combined with a national improvement scale to project future improvements. In addition, GRS recommended updated mortality assumptions for pre-retirement and disabled retirees using published mortality tables.

In response to a question from Representative Graviss regarding GRS' recommendation for females falling above most peer states, Mr. White stated the recommendation was data dependent and based on actual results. In both males and females, there is enough data to be statistically relevant and reliable. What the data shows, specifically for females, is that life expectancy for KRS retirees is different than the data for state as a whole and when compared to peer states.

In response to a question from Representative Miller regarding the financial impact of the mortality changes, Mr. White noted that GRS' full report included fiscal impacts for each plan. For the KERS nonhazardous system specifically, the accrued liability grew from \$15.6 million to \$16.3 million due to the mortality assumption changes.

In response to questions from Representative Wheatley regarding the importance and impact of various assumptions, Mr. White stated the magnitude and importance often is dependent on the underlying plan. With regards to a plan like KERS nonhazardous, which has a large unfunded liability, the payroll growth assumption can have much larger magnitude than the investment return assumption, given the lack of assets. In response to a follow-up question regarding the importance of the life expectancy assumption, Mr. White agreed that for the KERS plan, where over 70 percent of the liability is driven by retirees, changing the life expectancy for that group will have material impact.

Mr. White discussed the turnover assumption, or the likelihood of a member reaching retirement. This assumption was studied for all plans, but recommended changes were only made for the CERS hazardous plan. He reviewed charts which showed actual rates of turnover per years of service from 2013 to 2018 compared to the plans current and recommended assumption. As a member's years of service increase, the probability of them leaving the system drops. For example, for members with roughly 6 years of service, approximately 5 percent of that population would turnover and become inactive members.

Mr. White reviewed the overall payroll growth assumption and noted that GRS reviews both changes in total payroll and membership, given membership is the underlying driver for any increase or decrease in total payroll. GRS is not recommending a change to current assumptions, but suggested a move away from having a payroll-based contribution model and instead utilizing a fixed allocation of amortization cost. Mr. Eager added that this is the most critical funding issue that KRS faces.

In response to a question from Representative DuPlessis with regards to what that change in funding would look like specifically if KRS moved to level dollar funding, Mr. White stated that the total contributions calculated during the valuation process would not change. If the funding period remained the same, invoicing a dollar amount to employers, instead of tying the contribution rate to a percent of pay, would result in KRS receiving exactly what is expected. Currently, GRS converts the dollar amount into payroll rates, but with payroll declining at approximately two percent per year, this results in two percent less contributions than expected.

In response to a question from Representative Graviss with regards to payroll growth decline, Mr. White stated that KRS does not receive any employee data on contracted employees, so it is difficult to quantify. Mr. Eager added that the active membership had decreased from 44,000 to 34,000 over the past 10 years. Representative Graviss commented that he believed it was worth looking into this to determine how many jobs had been consolidated versus how many had been outsourced or contracted. He requested that a total number of contract laborers be supplied for review.

In response to questions from Mr. Chilton regarding the differences between the payroll growth and individual salary increase assumptions, Mr. White noted the payroll growth assumption is used to determine how the unfunded liability is amortized, or financed. Comparatively, the individual salary increase is used to project active member final compensation

for the purpose of calculating a total liability. He confirmed that if KRS moved to a level dollar method of financing the unfunded liability, the payroll growth assumption would not be needed, while a salary increase assumption would still be used for the benefit side. In response to a follow-up question regarding comparison of investment return assumptions to the nongovernment private sector, Mr. White stated that, generally, the private sector assumptions are a little lower.

In response to a question from Representative Miller as to the impact of the turnover assumption changes, Mr. White referenced the fiscal impact analysis included in the full report and indicated there would be a cost increase. Given the assumption is related to active members and not retirees, the impact on the accrued liability is not material, while most of the cost increase is reflected in an increase to the normal cost for both the pension and insurance plans.

In response to a question from Representative DuPlessis regarding how the amortization cost would be allocated in a fixed dollar funding model mentioned earlier, Mr. White stated there were two primary steps. First, GRS determines the amortization cost for that given fiscal year, which is the same process as they follow today. Secondly, the General Assembly would have to adopt legislation that outlined how that annual cost was allocated out to each of the employers. He mentioned two methods that had been considered, one based on recent payroll and one based on actual liability. Senate Bill 151 included language which allocated the amortization cost based on an employer's average payroll over the past 60 months. An alternative method could be to allocate the amortization cost based on each employer's percent of total liability as calculated during the valuation process. There are challenges to either method. Using an average payroll method may require employers who entered the plan later and do not have a base of retirees to pay more of the unfunded liability than they actually accrued. However, a benefit to this method is that payroll data is very transparent, while using the liability based allocation process is not quite as transparent. The actuary would calculate the liability, and employers who not have the level of detail or transparency they need could overwhelm KRS with requests to validate. Inherent to any cost sharing mechanism, no matter what method is chosen, is that there will be winners and losers.

Mr. White reviewed the fiscal impact and projected employer contribution rates of the recommendations. A slide reported each plan's unfunded liability, funding ratio, and employer rate before and after the assumption changes. The actual cost of a retirement system is based on the plan provisions and actual experience,

not the actuarial assumptions. The big changes taking place now hopefully will result in smaller, less material changes when the next experience study is conducted.

Senator Higdon noted recent legislation that exempted employers from making contributions on certain reemployed retirees. He felt like some level of contribution needed to be paid by those employers, such as normal cost. Senator Higdon asked if KRS could report back to the board the impact of exempted contributions for retirees returning to work.

In response to a question from Representative Wheatley regarding if Tier 3 member activity was incorporated in the turnover research, Mr. White confirmed that Tier 3 experience was included. Representative Wheatley asked for some clarification on the actual turnover results and noted how low turnover can be for firefighters. Mr. White stated that firefighters across the country have low turnover, but in the case of CERS and KERS, the pool is a mix of public safety and other hazardous positions, including firefighters.

In response to a question from Representative Graviss regarding the KERS nonhazardous plan assumed rate of return, Mr. White said the board had a stated goal of setting a rate that they believe could be met 60 percent of the time. Based on current asset allocation, at a 5.25 percent assumption, there is approximately a 59 percent chance of meeting or exceeding that assumption rate.

Representative Miller commented that given CERS employers' liability was projected to increase about 10 percent as a result of these changes, the employer rate phase-in would likely be extended another year or so. He asked for some clarification regarding why the CERS nonhazardous insurance plan saw an approximate 22 percent increase. Mr. White indicated GRS would take a harder look and respond at a later date.

In response to question from Representative Graviss regarding if a assumed rate of return closer to the average expectation of 5.72 percent would have an impact on the quasi-governmental employer issue, Mr. White stated it would not have material difference. The increase in contribution rates from 2017 was largely driven by the change in the payroll growth assumption and that, with such few assets, the discount rate does not materially impact the employer contribution rate.

In response to a question from Representative Graviss regarding cash flow, Mr. White stated that future benefit payouts should not change significantly due to the assumption changes. Longer term, as members live longer, benefit payments may change more, but the higher contribution rates received now should

help manage that cash flow.

With no further business, the meeting was adjourned.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

May 14, 2019

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, May 14, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Linda Hampton, Jason Siwula, Laura Hagan, Shawn Boggs, Patrick O'Connor, Matt Thacker, Jennifer Linton, Scott Baker, Mike Denney, Mary Harville, Mark Sommer, Ethan Witt, Kim Kincer, Jennifer Moore, Katie Marks, Pattie Clark, Rachelle Johnson, Jeremy Ratliff, Tom Midkiff, Deaidra Douglas, Kevin Rader, Kerrie Dehorty, Jean Bird, Andy Barber, Tom Stratton, and Astrud Masterson.

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

APRIL DEFERRED ITEMS:

EARLY CHILDHOOD DEVELOPMENT

Compass Evaluation and Research, 1900000832. Linda Hampton discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Hornback seconded the motion, which passed without objection.

TRANSPORTATION – OFFICE OF THE SECRETARY

Kentucky Association of Chiefs of Police, 1900002655, 1900002656, and 1900002659. Jason Siwula and Laura Hagan discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed without objection.

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

A motion was made by Senator Carroll to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the

committee. Senator Meredith seconded the motion, which passed without objection.

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Primary Care Association, Inc., 1900003728.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Rhithron Associates, Inc., 1900003994.

DEPARTMENT FOR INCOME SUPPORT

Stephen Jerome Spanbauer, 1900003613; Debra A. Smith, 1900003617; Allen Thomas Griffin II, 1900003618; Jacqueline Carey Fister, 1900003626; Neil Christopher Armstrong, 1900003649.

DEPARTMENT OF EDUCATION

Oneplus Services, LLC, 1900003805.

DEPARTMENT OF HIGHWAYS

HDR Engineering, Inc., 1900003978; Palmer Engineering County, 1900003979; Integrated Engineering, 1900003980; Leslie M. Haney & Albert W. Gross Partners, 1900003981; Gresham Smith, 1900003982; H. W. Lochner, Inc., 1900004126; WSP USA, Inc., 1900004135; AECOM Technical Services,

Inc., 1900004138; WSP USA, Inc., 1900004146; American Engineers, Inc., 1900004206; Parsons Transportation Group, Inc., 1900004224; Palmer Engineering Company, 1900004302.

DEPARTMENT OF MILITARY AFFAIRS
Ronald D. Huffman, 1900003646.

EASTERN KENTUCKY UNIVERSITY
Cammack Retirement Group, 20-185.

KENTUCKY FISH AND WILDLIFE RESOURCES
Wood Environment & Infrastructure Solutions, Inc., 1900003611.

KENTUCKY LOTTERY CORPORATION
Smartplay International, Inc., 20-12-011; Affiliated Forensic Laboratories, Inc., 20-17-011.

KY HOUSING CORPORATION
BLX Group LLC, 2020-30; Valbridge Property Advisors, 2020-31; T. Ronald Brown: Research and Analysis, 2020-32; Gibson Consulting, LLC, 2020-33; Value Tech Realty Services, Inc., 2020-34; Vogt Santer Insights, LTD. Co., 2020-35; Regulatory Solutions, LLC, 2020-36; Multi, 2020-6-22-24-29.

MOREHEAD STATE UNIVERSITY
Dean Dorton Allen Ford, PLLC, 19-046.

NORTHERN KENTUCKY UNIVERSITY
BKD, LLP, 2019-135; Parker Executive Search, 2019-136; Huron Consulting Group, 2019-137.

TRANSPORTATION - OFFICE OF THE SECRETARY
Upright Contracting Management Systems, Inc., 1900003652.

UNIVERSITY OF KENTUCKY
CMTA, Inc., A191150; Lord, Aeck & Sargent, Inc., A191170; Stengel-Hill Architecture, A191180; Svanaco, Inc. d/b/a Americaneagle.com, K19-237.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

BOARD OF MEDICAL LICENSURE
Multi, 1900000777.

DEPARTMENT FOR PUBLIC HEALTH
Multi, 1900001055; Multi, 1900001212; Multi, 1900001304.

DEPARTMENT OF AGRICULTURE
Miss Kentucky Scholarship Organization, 1900000537.

DEPARTMENT OF EDUCATION
Kim H. Price, 1800001895.

DEPARTMENT OF HIGHWAYS
QK4, 1000000927; Burgess and Niple, Inc., 1200000158; QK4, 1300001567; HDR Engineering, Inc., 1300001736; American Engineers, Inc., 1300002023; T H E Engineers, Inc., 1500000101; Palmer Engineering Company, 1500000221; Strand Associates, Inc., 1600000642; URS Corporation, 1600001427; Matthew L. Chapman, 1700001164; Matt Chapman, 1700001170; Appco Appraisal Service, Inc., 1700001176; John Daniel Lyons, 1700001177; Bluegrass Valuation Group, LLC, 1700001182; Appco Appraisal Service, Inc., 1700001184; Tammy L. Barnes, 1700001185; Palmer Engineering Company, 1700001263; EA Partners, PLC, 1700002782; DLZ Kentucky, Inc., 1800000376; DLZ Kentucky, Inc., 1800000385; HDR Engineering, Inc., C-01228504.

DEPARTMENT OF VETERANS AFFAIRS
Gifted Nurses, LLC, 1800001252.

FACILITIES & SUPPORT SERVICES
Stantec Consulting Services, Inc., 1400000625; Clotfelter Samokar, PSC, 1500000669; THP Limited, Inc., 1500002870; Lockett and Farley Architects Engineers and Construction Managers, Inc., 1600000831; Ross Tarrant Architects, Inc., 1700002129; Clotfelter Samokar, PSC, 1800001327; S&Me, Inc., 1900002340; Omni Architects, 1900003529.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM
Language in Motion, 754; Sturgill, Turner, Barker & Maloney, 759; McBrayer, McGinnis, Leslie & Kirkland, PLLC, 761; Walther, Gay & Mack, PLC, 762; Bingham, Greenebaum, Doll, PLLC, 763.

KY HOUSING CORPORATION
Stierle and Rettig, PLLC, 2019-38.

UNIVERSITY OF LOUISVILLE
VB Consulting, 19-008; Clifton Larson Allen, LLP, 19-018.

WESTERN KENTUCKY UNIVERSITY
Nicole Musgrave, 181926.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES
Kentucky Administrative Office of the Courts, 1900003569; Baptist Health Care Systems,

Inc., 1900003687; C.E. Mendez Foundation, Inc., 1900003845; St. Elizabeth Medical Center, 1900003848; Kentuckiana Health Collaborative, 1900003849; Volunteers of America Mid-States, Inc., 1900003854; Kentucky River Community Care, Inc., 1900004085.

COUNCIL ON POSTSECONDARY EDUCATION
Collaborative for Teaching, 1900003432.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Jefferson County Board of Education, 1900003455; Mercer County Conservation District, 1900003826.

DEPARTMENT FOR LIBRARIES & ARCHIVES
Clark County Public Library, 1900002677.

DEPARTMENT FOR LOCAL GOVERNMENT
Kentuckiana Regional Planning & Development Agency, 1900003302; City of Maysville, 1900003580; City of Berea, 1900003598; Johnson County Fiscal Court, 1900003632; Hart County Fiscal Court, 1900003634; City of Campton, 1900003659; Perry County Sanitation District #1, 1900003661; Warren County Fiscal Court, 1900003702; Menifee County Fiscal Court, 1900003704; City of Lacer, 1900003705; Jackson County Fiscal Court, 1900003721; Estill County Fiscal Court, 1900003725; Lee County, 1900003812; Webster County Fiscal Court, 1900003813; Webster County Fiscal Court, 1900003814; The Appalachian Wildlife Foundation, Inc., 1900003822; Ohio County Industrial Development Authority, Inc., 1900003967; City of Clarkson, 1900003990; McLean County, 1900004016; Ohio County Fiscal Court, 1900004040; Allen County-Scottsville Industrial Development Authority, 1900004177; McCreary County Industrial Development Authority, 1900004185.

DEPARTMENT FOR PUBLIC HEALTH
University of Kentucky Research Foundation, 1900003341.

DEPARTMENT FOR WORKFORCE INVESTMENT
Hazard Community and Technical College, 1900003658; The Council of State Governments, 1900003985.

DEPARTMENT OF EDUCATION
Central Kentucky Educational Cooperative, 1900003701.

KENTUCKY FISH AND WILDLIFE
RESOURCES

Kenlake Marina Corporation, 1900001665.

STATE TREASURER

Kentucky State University, 1900003629.

THE FOLLOWING MEMORANDA
OF AGREEMENT AMENDMENTS WERE
REVIEWED WITHOUT OBJECTION:

BEHAVIORAL HEALTH,
DEVELOPMENTAL & INTELLECTUAL
DISABILITIES

Multi, 1900000895; Centerstone of Kentucky, Inc., 1900000937; Northern Kentucky Regional Mental Health Mental Retardation Board, 1900000938; Pathways, Inc., 1900000941; Mountain Comp Care Center, 1900000942; Kentucky River Community Care, Inc., 1900000943; University of Kentucky Research Foundation, 1900001243; Pathways, Inc., 1900001790.

CHFS - DEPARTMENT FOR AGING AND
INDEPENDENT LIVING

Multi, 1900000633; Multi, 1900000816; Multi, 1900000876; Multi, 1900001119; Multi, 1900001218.

DEPARTMENT FOR COMMUNITY
BASED SERVICES

Brighton Center, Inc., 1800001659; Housing Authority of Bowling Green, 1800001662; KVC Behavioral Health Care/Croney & Clark, 1800001797; Ramey Estep Homes, Inc., 1800001833; University of Kentucky Research Foundation, 1800002000; Kentucky Association of Child Advocacy Centers, 1900001068.

DEPARTMENT FOR LOCAL
GOVERNMENT

City of Hawesville, 1700001802; Union County Fiscal Court, 1900003075.

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 1800001698; Kentucky Mountain Health Alliance, Inc., 1900000873; University of Kentucky Research Foundation, 1900002814.

DEPARTMENT OF CORRECTIONS

Pike County, 1900000490; Pike County, 1900000501.

DEPARTMENT OF EDUCATION

Christian County Board of Education, 1900000112; Whitley County Board of Education, 1900000187; Wolfe County Board of Education, 1900000189; Fayette County Board of Education, 1900000429-1; Frankfort Independent School District, 1900000446; Kentucky Community and

Technical College System, 1900001322; Jefferson County Board of Education, 1900001554.

KY STATE NATURE PRESERVES
COMMISSION

Eastern Kentucky University, 1900000971; Morehead State University, 1900002222.

TRANSPORTATION - OFFICE OF THE
SECRETARY

Kentucky Association of Chiefs of Police, 1900003417.

THE FOLLOWING PERSONAL
SERVICE CONTRACTS WERE SELECTED
FOR FURTHER REVIEW:

DEPARTMENT OF INSURANCE

Heather Quinn, LLC, 1900003925. Shawn Boggs, Patrick O'Connor, and Matt Thacker discussed the contract with the committee. A motion was made by Senator Meredith to disapprove the contract. Senator Hornback seconded the motion which passed with Senator Carroll and Representative Booker voting no.

FACILITIES & SUPPORT SERVICES

CMTA, Inc., 1900003583. Jennifer Linton and Scott Baker discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

KENTUCKY LOTTERY CORPORATION

Akin Gump Strauss Hauer & Feld, LLP, 19-018-2. Mike Denney, Mary Harville, and Mark Sommer discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

KENTUCKY STATE UNIVERSITY

Bell & Trice Enterprises, Inc., 19-24. Rachele Johnson discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Booker seconded the motion, which passed.

KY HOUSING CORPORATION

Caine Mitter & Associates, 2020-37. Jeremy Ratliff and Tom Midkiff discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE
CONTRACT FOR \$10K AND UNDER WERE
SELECTED FOR FURTHER REVIEW:

EASTERN KENTUCKY UNIVERSITY

Jim Suttie, 20-196. Ethan Witt and Kim Kincer discussed the contract with the committee. A motion was made by Senator Hornback to disapprove the contract. Senator Wheeler seconded the motion which failed, with Senator Carroll, Senator Wheeler, Representative Booker, Representative Hart, and Representative Lee voting no. A motion was made by Representative Hart to consider the contract as reviewed. Representative Booker seconded the motion, which passed with Senator Hornback and Senator Meredith voting no.

KENTUCKY LOTTERY CORPORATION

Ellen Williams, LLC, 19-18-1. Mike Denney, Mary Harville, and Mark Sommer discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Senator Meredith seconded the motion, which passed.

THE FOLLOWING MEMORANDA
OF AGREEMENTS WERE SELECTED FOR
FURTHER REVIEW:

DEPARTMENT OF CRIMINAL JUSTICE
TRAINING

Eastern Kentucky University, 1900003424. Deaira Douglas, Kevin Rader, and Kerrie Dehorty discussed the contract with the committee. A motion was made by Representative Booker to consider the contract as reviewed. Senator Carroll seconded the motion, which passed, with Senator Meredith voting no.

KENTUCKY DEPARTMENT OF PARKS

Nelson County Treasurer, 1900003811. Jean Bird discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

TRANSPORTATION - OFFICE OF THE
SECRETARY

Kentucky Heritage Council, 1900003498. Laura Hagan and Andy Barber discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

THE FOLLOWING MEMORANDA
OF AGREEMENT AMENDMENTS WERE
SELECTED FOR FURTHER REVIEW:

BEHAVIORAL HEALTH,
DEVELOPMENTAL & INTELLECTUAL
DISABILITIES

St. Elizabeth Medical Center North, 1800000509; Eastern Kentucky University, 1800001953; Justice Cabinet, 1800001998; University of Kentucky Research Foundation, 1800002012; Voices of Hope - Lexington, Inc., 1900002799. Jennifer Moore, Katie Marks, and Pattie Clark discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Booker seconded the motion, which passed.

CHFS - OFFICE OF THE SECRETARY

Office of Procurement Services, 1800001541. Tom Stratton and Astrud Masterson discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

EXEMPTION REQUESTS:

EDUCATION AND WORKFORCE
DEVELOPMENT CABINET:

The Education and Workforce Development Cabinet, Department of Education requested an exemption pertaining to the biennial requirement GCRC Policy Statement 99-4 for Federal grant agreements issued to local school districts and other sub-recipients. A motion was made by Senator Carroll to grant the request to September 30, 2020. Representative Hart seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 12:19 PM.

**PROGRAM REVIEW AND
INVESTIGATIONS COMMITTEE
May 9, 2019**

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, May 9, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Senators Reginald Thomas, Whitney Westerfield, and Phillip Wheeler; Representatives Lynn Bechler, Chris Fugate, Al Gentry, Adam Koenig, Ruth Ann Palumbo, Steve Riley, Rob Rothenburger, and Walker Thomas.

Guests: Dr. Aaron Thompson, President, Council on Postsecondary Education;

Paul McPherson, Acting Commissioner of the Department for Facilities and Support Services, and Scott Aubrey, Director of the Division of Real Properties, Finance and

Administration Cabinet.

LRC Staff:

Greg Hager, Committee Staff Administrator; Jon Roenker, Chief Economist; Whitney Davis; Chris Hall; Van Knowles; Jean Ann Myatt; Sarah Ortkiese; Jeremy Skinner; William Spears; Shane Stevens; Susannah Stitzer; Joel Thomas; Scott Tremoulis; and Kate Talley, Committee Assistant.

Election of House Co-chair

Senator Carroll asked for nominations for House co-chair. Representative Koenig nominated Representative Rothenburger. Representative Bechler seconded the motion. Representative Rothenburger was elected by acclamation upon a motion by Representative Thomas and a second by Representative Koenig.

Minutes for November 8, 2018

Upon motion by Senator Westerfield and second by Representative Fugate, the minutes for the November 8, 2018 meeting were approved by voice vote without objection.

Senator Carroll welcomed Senator Wheeler and Representative Gentry as new members of the committee.

**Staff Report: Tuition, Fees, And Other
Costs At Kentucky Public Universities**

Mr. Tremoulis said the report, first presented at the committee's November 2018 meeting, covers the Council on Postsecondary Education's (CPE) role in setting tuition and mandatory fees, costs for students, average net price, financial aid, and undergraduate borrowing. The report makes comparisons with public universities in seven surrounding states and 15 other member states of the Southern Regional Education Board. Costs are adjusted for inflation in 2015 dollars.

From academic year (AY) 2003 to AY 2009, the annual average growth rate for tuition and fees was 11.8 percent. The rate decreased to 4.6 percent for the AY 2010 to AY 2018 period. After AY 2009, CPE established tuition and fee ceilings with the goal of limiting annual increases to 3.5 percent to 5.5 percent.

Total cost of attendance is the sum of tuition, fees, books, supplies, room and board, and other expenses. Net price is total cost of attendance minus the average of all sources of aid. From AY 2007 to AY 2015, the largest increase in total cost was for Murray State (34 percent); the largest increase in net price was for Morehead State (40.3 percent). The highest net price as a percentage of total cost in AY 2007 was for the University of Kentucky (66.5). In AY 2015, the highest percentage was for the University of Louisville (63.3).

From AY 2007 to AY 2015, the average total cost for public universities in Kentucky increased 23 percent; average net price increased

14 percent. The average total cost for public universities in the surrounding states increased 15 percent; average net price increased 11 percent. The average total cost for public universities in the Southern states increased 23 percent; average net price increased 16 percent. Kentucky had the lowest average total cost and net price among surrounding and Southern states in AY 2007 and AY 2015.

From AY 2000 to AY 2015, the percentage of Kentucky students receiving state aid and the average amount of state aid remained flat; the amount of institutional aid increased. In AY 2015, 68 percent of Kentucky university students received state aid; the average amount was approximately \$2,300. Kentucky institutions awarded aid to 59 percent of students; the average amount was \$6,900.

Median college graduate loan debt was relatively flat from fiscal year (FY) 2001 to FY 2008. Median loan debt then increased 54 percent, from \$15,500 in FY 2008 to \$24,000 in FY 2015. From FY 2012 to FY 2015, the percentage of students who defaulted within 3 years decreased for institutions in Kentucky and in surrounding states. Kentucky institutions' 3-year default rate was higher than the rate for institutions in surrounding states.

In response to a question from Senator Carroll as to why data in the report stopped at 2015, Mr. Tremoulis said that data for later years were preliminary at the time of the report.

In response to a question from Representative Bechler on how the increase in tuition compared to increases in the cost of living, Mr. Hager said that numbers in the report were adjusted for inflation. The reported increases were beyond inflation.

In response to a question from Senator Carroll about how Kentucky's tuition compares to other Southern states, Mr. Tremoulis said that the upward trend is similar. The average net price for Kentucky universities is lower than the average of most Southern states.

In response to questions from Senator Wheeler about causes of the large increase in student loan debt after 2008, Ms. Davis said that the report did not cover causal factors related to the increase. One article related the increase in debt to households' decreasing ability to afford higher education following the recession. Mr. Tremoulis replied to Senator Wheeler's question about cost drivers of tuition by saying IPEDS data included cost components but the report did not cover why specific costs increased.

In response to Representative Gentry's question about whether there a relationship between declining state appropriations to universities and increased costs for students, Mr. Tremoulis said that there is a trend but that staff cannot say whether there is a causal relationship.

Ms. Davis noted that as state support has declined, institutional aid and student debt have increased

Senator Thomas noted that slide 6 shows that median student debt was flat until 2008 and has jumped since. He asked whether this was related to Kentucky being the only state that has cut higher education funding over the past 11 years. Ms. Davis said that debt has also been increasing in surrounding and Southern states. In response to his follow-up questions, she said that she did not know whether debt for Kentucky students would have been mitigated if appropriations had not decreased or whether the trend would be reversed if appropriations were to increase in the future.

Senator Carroll said that all can agree that the General Assembly would prefer to put more money into postsecondary education but there is a crisis with the state pension system. The goal is to address this in order to make investments in needed areas such as postsecondary education.

Representative Koenig said that decreased appropriations is not the only factor in the increase in costs to students. One way to save universities money is to reduce pension costs, which the vetoed pension bill would have done. The workers compensation bill will lower universities' costs for this by 10 percent this year and probably more in the future.

Representative Rothenburger asked why debt is increasing as the number of students taking dual credit courses in high school has been going up, as more employers are offering free tuition for coming to work for them, and universities are offering more virtual courses. Dr. Thompson said that the significant growth in dual credit programs occurred in the past 2 or 3 years and would not be reflected in the data used for the report. Student debt is especially high for students who do not graduate and for graduates who have a credential that does not pay enough to cover the cost of their debt. CPE and the universities are working to improve financial literacy related to career choice and debt.

Representative Rothenburger said that he is concerned about the supply of healthcare professionals. In response to his questions about debt relief for those in healthcare going into rural or impoverished areas, Dr. Thompson said that there are federal programs for healthcare and other fields. Some programs have state matching funding. The state could do more to take advantage of these programs. Kentucky is not doing a good enough job in K-12 in getting people into teaching, including STEM areas. Good advising is the key. Unfortunately, the staff cuts being made by universities in response to decreased revenue have included some personnel who do such advising.

In response to a question from

Representative Riley about the data on student loan debt, Ms. Davis said that loan data are for first-time, full-time undergraduates and debt data are for all undergraduates. Data from the individual universities were averaged. Dr. Thompson said that national average data are for all loans, including graduate and professional programs. Representative Riley commented that students are aware of these programs but are reluctant to move from cities to rural areas after completing college. A big issue with student loan debt is that students pursue areas of study for which it is difficult to find jobs or the jobs do not pay enough for students to pay their debt. Dr. Thompson said there are good lower paying jobs, but there is a need to be proactive in informing students about the financial resources needed to repay student debt.

In response to a question from Senator Carroll, Dr. Thompson said that universities have become more proactive about monitoring students' debt and will become even more so.

Senator Wheeler said that it is a great challenge is to keep graduates in impoverished areas long term once they have met the requirements for getting debt relief. He suggested that people in these programs be encouraged to assimilate to the community to entice them to remain there after their debt is paid off. Dr. Thompson agreed.

Senator Carroll asked whether there is a comprehensive plan to help reduce the cost of college. Dr. Thompson said that there are four ways to think about the future: getting a higher percentage of Kentucky residents to go to college; getting more adults to return to school or skill up; improving the success rate, including students finishing their programs faster; and getting more out-of-state students who stay in Kentucky after graduation. CPE is working with the university presidents.

Senator Thomas stated that earlier Dr. Thompson had said that there are three reasons for the large increase in student debt but only students not finishing was mentioned. Dr. Thompson said the other two reasons are that some students are overborrowing for the degrees they get and financial literacy is insufficient.

Senator Thomas said that Kentucky is the only state that has continued to cut higher education since 2008, cheating universities of more than \$1.1 billion. He asked whether Dr. Thompson would advocate returning higher education funding to 2008 levels in the 2020-2022 budget. Dr. Thompson said he would. He said that he understands that there are other problems to be addressed, but higher education can help alleviate them.

Representative Bechler said that he objected to the term cheating. He asked whether thought is being given to reducing the number of

students or programs in fields with student debt problems. Dr. Thompson said some programs, including popular ones, have been eliminated. CPE's review will consider more.

Representative Bechler made a motion to adopt the staff report; Representative Riley seconded. The report *Tuition, Fees, And Other Costs At Kentucky Public Universities* was adopted by roll call vote.

Senator Carroll thanked Dr. Thompson for Kentucky universities' participation in the federally funded SHEP program [Supported Higher Education Project], through which his special-needs daughter is attending Murray State University. He said that part of his mission will be to further this program in the state.

Staff Report: Surplus Real Property In Kentucky

Ms. Myatt stated that the Finance and Administration Cabinet's Division of Real Properties (DRP) manages the inventory of state-owned properties. Real property is any land and improvements. Information on properties is stored in the Archibus asset management system. As of June 2017, Kentucky had 7,929 real property assets. Thirty-three properties were listed as vacant in Archibus. Program Review staff identified 601 properties that did not specify a building use description code or were designated as unknown in Archibus. DRP does not require agencies to enter a use code for reporting. The report's first recommendation is that the cabinet should ensure that agencies provide building use code descriptions in all real property reporting forms.

Of 34 properties resulting in a sale since 1998, nine property transactions had problematic information, including properties with no sale value, no appraisal, or that seemed to qualify for transfer instead of sale. The report's second recommendation is that the cabinet should ensure that all property disposition files are complete and that Archibus is up-to-date and reflects paper files associated with a disposition.

The cabinet is empowered, with secretary approval, to allow transfers, exchanges, and sales of real property. Transfers, generally without cost, are allowed to other governmental entities for public use. DRP handles the disposition of surplus property, but there is no centralized process to identify surplus property. Agencies inform DRP, submitting a written request, with supporting documentation, to dispose of the property. Some states have adopted a centralized process to manage real property assets. The report's third recommendation is that the division should consider designing and implementing a survey that helps agencies identify underused or unnecessary space. The division should then consider advising agencies on space planning and identifying potential surplus properties.

Once a property is approved for sale, it may be sold via sealed bid or auction. If other agencies have expressed interest in acquiring property, the division provides notification to the agencies before initiating a public sale. Since 2009, surplus real properties have increasingly sold for below appraised values. The state's Model Procurement Code seems to indicate that state real property should not sell for below its appraised value.

Mr. Thomas showed a graph of the differences between appraisal values and sales. Senator Carroll asked about the property that sold for approximately \$400,000 below appraisal in 2002. Mr. Thomas replied that it was a parking lot in Pikeville that was sold to a church by the Kentucky Community and Technical College System. Continuing the presentation, Mr. Thomas said that since 2009, of the 14 properties that sold for less than \$500,000, 11 were below appraisal, including five that sold for less than half of appraised value. Four of five properties selling for over \$500,000 from 2010 to 2017 sold for less than their appraisals. Over the 1998 to May 2017 period, the total value of sales was \$11.5 million, \$2.1 million less than total appraisals. From February 2012 to May 2017, 13 properties, mostly state office buildings, sold for a total of approximately \$10.7 million.

DRP relies on individual agencies to provide an inventory of real property, including any property considered surplus. The division does not have a means of identifying surplus real property and does not use space standards to address issues such as occupancy and whether property could be consolidated or used more efficiently. Some states have moved to a more centralized model of real property asset management, which includes a single agency prescribing standards for space utilization. A growing number of employees are not provided permanent office space because of alternative workspace arrangements such as telecommuting or virtual office. Square footage requirements for employees have been decreasing. Mr. Thomas described initiatives for real property management in Georgia and Tennessee.

Kentucky also uses leasing as part of its real property asset management. As of November 2017, Kentucky had 1,481 active leases. Kentucky was lessee of 1,030 leases, for which the state paid \$50 million, and lessor of 451 leases, for which the state received \$14 million. Most leases are fixed fee. Leasebacks and built-to-suit leases allow land to be transferred to another entity to construct a project and lease the building back to the state until the state attains ownership once the lease amortizes. As of January 2, 2018, DRP listed two properties with leaseback arrangements and one timber harvest sale. The state of Washington has a similar leaseback capital construction model to Kentucky. Mr. Thomas described how Georgia

and Missouri have decreased the number of properties they lease.

Responding to Senator Carroll's question about the process for selling a surplus property, Mr. Aubrey said that state agencies send information on a surplus property to DRP, which checks to see if other state agencies have a use for the property. If they do not, the division checks with local governments. During this process, an appraisal is done. If no state agency or local government wants the property, it is put up for public bid. If no initial bid is acceptable, the property is rebid, possibly multiple times. Eventually, the property may be sold for less than appraisal to cut the state's losses such as the cost of utilities and maintenance.

In response to a question from Senator Carroll, Mr. Aubrey stated that in approximately 90 percent of cases, the proceeds of the sale of surplus property go to the general fund. More of the proceeds may be retained by agencies in the future. Budget language in recent years has allowed some proceeds to go to the agencies that had the surplus properties.

In response to a question from Senator Carroll, Mr. Aubrey said that there is no systematic review of surplus properties. The division has only 18 staff and depends on agencies to identify surplus properties.

Representative Thomas asked for a description of the University of Kentucky (UK) public-private project. Mr. Aubrey said that UK has opted out, so the university will be handling the project. It is a 30 year lease at the end of which the property reverts to UK, which is similar to what was done with the Mero Street project in Frankfort.

In response to a question from Representative Koenig, Mr. Aubrey said that DRP is complying with the statute that properties not be sold for less than appraisal. For most sales, the sale price and appraisal are similar. For properties resulting in sales that are significantly less than appraisal, the property is rebid multiple times. At the same point, the decision is made that the market has spoken; the sale price is the fair market value.

Representative Koenig said that as a realtor he understands the need to cut losses, but it seems like the agency is not living up to letter of the law. As a state, we should do that or consider changing the statute. He asked whether how appraisers are chosen should be changed given the large differences between appraisal and sale price in some cases. Mr. Aubrey said that appraisers are selected from the list of appraisers approved by the Transportation Cabinet. Appraisals are reviewed, but DRP generally relies on the expertise of the certified appraisers.

Senator Carroll said that he was surprised that sales do not go through a legislative committee for review. The lack of oversight is a

concern.

Senator Wheeler said a centralized database would save money for the state. In response to his questions, Mr. Aubrey said that, by statute, DRP communicates with cities and counties to see if they have appropriate facilities for the state to lease if a suitable state property is unavailable.

Senator Carroll gave the example of office space that was leased for a higher price than other options by the Administrative Office of the Courts, as cited in a report by the state auditor. Senator Westerfield said that the property was owned by the son of a former Supreme Court justice. Mr. Aubrey said that he was not familiar with this transaction, but state agencies are generally expected to rent for the lowest price available. Exceptions are made if there is reasonable justification, such as a more convenient location.

In response to questions from Representative Rothenburger, Mr. Aubrey said that the number of state assets is close to 7,929, the number in the staff report and presentation. The number does not include Transportation Cabinet right of ways. The only Administrative Office of the Courts property included is its Frankfort headquarters. DRP is working to ensure that every property is counted. The Finance and Administration Cabinet's Division of State Risk and Insurance Services does an audit every 4 years, which allows DRP to identify any properties missed in prior years. In response to Representative Rothenburger's question as to whether there are more properties that could potentially be sold, Mr. Aubrey said yes.

Representative Rothenburger asked whether sealed bids is the primary way of disposing of a property and whether DRP lists on websites such as govdeals.com. Mr. Aubrey stated that sealed bids are the primary method and that only personal property is listed online. DRP uses eProcurement, the Finance and Administration Cabinet, and local newspapers. Representative Rothenburger said that it is costly to do sealed bids and that online listings should be considered. Consolidation of properties should be considered, such as placing commonwealth attorneys, pre-trial, probation, and parole in the judicial centers instead of in separate spaces. Kentucky should look at other states and centralization.

Senator Carroll said that there is a need for more discussion on this topic. It does not seem like the handling of surplus properties is organized adequately.

Representative Koenig made a motion to adopt the staff report; Senator Wheeler seconded. The report *Surplus Real Property In Kentucky* was adopted by roll call vote.

Senator Carroll announced that the committee will meet during the weeks in which interim

joint committees meet on Fridays at 8 AM: June 7, July 12, August 23, September 13, October 11, and November 22.
The meeting was adjourned at 11:53 AM.

LRC Publications

Research Reports

- 458** Program Review and Investigations Tuition, Fees, And Other Costs At Kentucky Public Universities (2019)
- 457** Office of Education Accountability State And Local Funds Distributed To Higher Poverty Schools (2018)
- 456** Program Review and Investigations Surplus Real Property In Kentucky (2019)
- 455** Office of Education Accountability Textbooks And Instructional Materials (2018)
- 454** Office of Education Accountability Homeschooling In Kentucky (2018)
- 453** Office of Education Accountability Kentucky District Data Profiles School Year 2017
- 452** Program Review and Investigations Kentucky's Foster Care System
- 451** Office of Education Accountability High School Indicators Of Postsecondary Success (2017)
- 450** Office of Education Accountability Preschool Program Review And Full-Day Kindergarten (2017) (Revised 7/10/2018)
- 449** Office of Education Accountability School Attendance in Kentucky (2017)
- 446** Program Review and Investigations Motor Fuel Taxes And Reformulated Gasoline In Kentucky 2016
- 445** Program Review and Investigations Information Technology In Kentucky State Government (2014)

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