2017 Interim

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* Read online at www.lrc.ky.gov/legislation.htm

Lawmakers briefed on state's homeland security

by Jim Hannah
LRC Public Information

FRANKFORT – When authorities found out white supremacists and counterprotestors planned to gather in Pikeville this past April, the Kentucky Office of Homeland Security provided support to the local community to head off any violence.

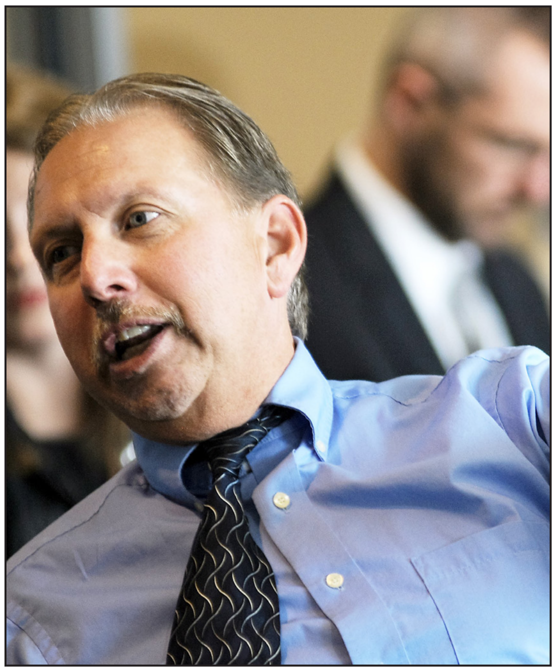
That's one example Kentucky Office of Homeland Security Executive Director John Holiday gave of his office's work while testifying before the Nov. 9 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection. He said part of the office's mission is to "connect the dots between local, state and federal entities for law enforcement."

Holiday added that his office provides support to the about 7,700 sworn police officers, 21,000 firefighters, 13,000 EMS personnel and 1,600 certified 911 operators across Kentucky.

"We are committed to ensuring these frontline responders have everything they need to do their job," he said. "Here is the problem right now: The threats and hazards we face on a daily basis are evolving. Unfortunately, bureaucracies don't evolve as fast. Governments have a hard time keeping up with that evolution of threats. And it is very important for us to face those threats."

Holiday said the office was the only civilian agency in Kentucky with access to federal classified information systems.

"Our office must consume and analyze this data effectively," he said. "We must take that data, and as fast as we can, consume it and determine if any other threats or hazards exist. It is a never-ending process and it can be quite stressful. You would be surprised of the Kentucky nexus to many global threats that are happening on a daily basis."



Rep. Rob Rothenburger, R-Shelbyville, engages with presenters during the Nov. 9 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection.

With legislators preparing for the upcoming session, Holiday outlined the office's various programs and how it functions on a limited budget.

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Agency makes new Kentucky homes its business

by Rebecca Hanchett
LRC Public Information

FRANKFORT—One agency based in Frankfort is helping thousands of Kentuckians find housing – all without using a single state general fund dollar.

"We don't receive any general fund appropriation," Kentucky Housing Corporation (KHC) Executive Director Edwin King told the Interim Joint Committee on Local Government during the panel's Oct. 25 meeting. "With an abundance of appreciation for the task at hand in the next budget session, I won't be coming before you to ask for any money."

King and his colleagues at KHC—a quasi-governmental agency whose income comes primarily from sales of tax-exempt mortgage bonds and fee income from the federal Department of Housing and Urban Development, or HUD—appeared before the committee to talk about one of his agency's specific missions: community revitalization, which includes the rehabilitation and reuse of vacant, blighted and abandoned properties.

Among the KHC revitalization projects reported to the committee by King and KHC Deputy Executive Directors Lisa Beran and Jeremy Ratliff were the Scholar House program

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Marsy's Law discussion renewed by Judiciary committee

by Rebecca Hanchett
LRC Public Information

Above: Rep. Joni Jenkins, D-Shively, comments on Marsy's Law at the Nov. 3 meeting of the Interim Joint Committee on Judiciary. Below: Senate Majority Caucus Chairman Dan Seum, R-Louisville, asks those testifying at the meeting how a constitutional crime victims' bill of rights would be enforced in Kentucky.

FRANKFORT—Kentucky crime victims have weaker rights than Kentucky criminals, say victims' advocates who hope to balance out those rights with the help of Kentucky's voters.

One proposed remedy is Marsy's Law, legislation already passed in a handful of states that allows a state's voters to approve specific, limited constitutional protections—dubbed a "bill of rights"—for crime victims. Sen. Whitney Westerfield, R-Hopkinsville, a co-chair of the Interim Joint Committee on Judiciary and sponsor of Marsy's Law bills in past years, said he plans to sponsor similar legislation next year.

Westerfield told members of the Judiciary committee at a Nov. 3 meeting that the crime victims' bill of rights he supports is "largely procedural to ensure that (victims) have a meaningful role in the process, and that's what Marsy's Law sets out to do."

Kentucky would become at least the sixth state to pass Marsy's Law—named for Californian Marsy Nicholas, who was stalked and killed by an ex-boyfriend in 1983—should Westerfield's proposal make it through the 2018 General Assembly. Passage of the bill would clear the way for the proposed amendment to go on statewide ballot next fall, leaving the decision of whether certain victims' rights should be embedded in the state constitution up to the voters.

Of all the proposed victims' rights, Westerfield said the one that's needed most is the right of victims to have legal standing, which gives them the ability to fight for their rights in court.

"Right now, even if you were a crime victim and you could assert that you have a right that was violated, you don't have any recourse. You can't show up in front of a circuit court judge and demand to be heard. And that's not right," Westerfield said.

The senator challenged the idea that giving victims constitutional protections hurts the accused or convicted criminals. Constitutional rights of the accused and convicted "should be protected. This doesn't disrupt any of those. If it did, I wouldn't be for it," said Westerfield.

Instead of taking anything away, Kentucky Executive Director for Marsy's Law Ashlea Christiansen told the committee that Marsy's Law

Kentucky would become at least the sixth state to pass Marsy's Law—named for Californian Marsy Nicholas, who was stalked and killed by an ex-boyfriend in 1983.

balances the rights of victims and defendants. The proposal puts a human face on the rule of law that considers crime to be against the state, not an individual, she said.

"We have to remember it's the victim who has suffered," she said.

Senate Majority Caucus Chair Dan Seum, R-Louisville, asked about the process for enforcement should Kentucky amend its constitution to include a crime victims' bill of rights. Westerfield said the courts could order different remedies for victims, with redoing a defendant's hearing likely to be the most severe.

"They can't get a new trial," said Westerfield. "They can't trample on the rights of the accused. Ordinarily it's a redo of the hearing at the most."

Rep. Joni Jenkins, D-Shively, said she supports the proposal but that more needs to be done for victims. Many struggle with medical costs and other issues tied to their victimization, she said.

"I talked to a victim of sexual assault last week and she talked about the financial problems that came with her victimization" including the cost of ambulance transport and extended HIV testing that the victim was required to have, said Jenkins. "That came out of her pocket and her insurance."

Marsy's Law legislation has not yet been filed for consideration during the 2018 Regular Session. Westerfield said he plans to file his legislation in January.

Lawmakers look at cost of solar energy

by Rebecca Hanchett
LRC Public Information

FRANKFORT— Solar power means bigger electricity bills for non-solar customers, a group called the Consumer Energy Alliance told a panel of state legislators in November.

CEA's Brydon Ross told the Interim Joint Committee on Natural Resources and Energy during a Nov. 2 meeting that private credits given to solar customers who participate in programs like net metering--which gives retail credit for excess solar energy fed into the electrical grid—allows those customers to avoid paying costs that most consumers on the grid pay.

Kentucky has had a net metering program since 2004.

The issue, said Ross, is that net metering customers in Kentucky are paid a retail rate that is three times the competitive market rate even though they don't pay many of the costs that other electricity customers do. Current solar energy policies in at least 15 other states have also proven costly, he said.

"Our analysis found that private solar credits are shifting costs on to less affluent customers," said Ross. "Those who can't afford private solar should not subsidize those receiving private solar credits."

He was quick, however, to emphasize that his organization supports solar energy.

"Advocating for reform in solar does not mean you are anti-solar," said Ross. "We think the legislature has a real opportunity here to address an issue before it becomes a real problem."

Rep. Kelly Flood, D-Lexington, said that the solar energy movement is just starting to have an impact in Kentucky. She questioned Ross on how the reforms CEA is proposing would affect what she called "transitional costs" as more customers move toward solar.

"Incentive programs have been set up to get this whole business up and moving …. But now you're saying pull back the incentive programs, is that what you're asking for?" Flood said.

Competitive rates in the current market is the goal of CEA and its over 250 members, which include the Kentucky Chamber of Commerce, LG&E/KU and other CEA associate members in Kentucky, Ross said.

Rep. Jim Gooch, R-Providence, said solar is not a constant energy source. Other energy sources "base load" the electricity grid "to be there when the intermittent sources are not providing power," said Gooch, co-chair of the Natural Resources and Energy Committee.

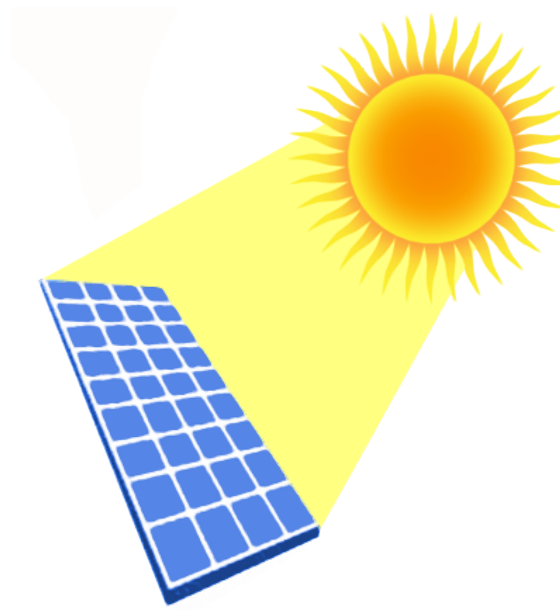
Interim Joint Committee on Natural Resources and Energy Co-Chair Rep. Jim Gooch, R-Providence, comments on solar energy and its impact on the electricity grid at the committee's Nov. 2 meeting.

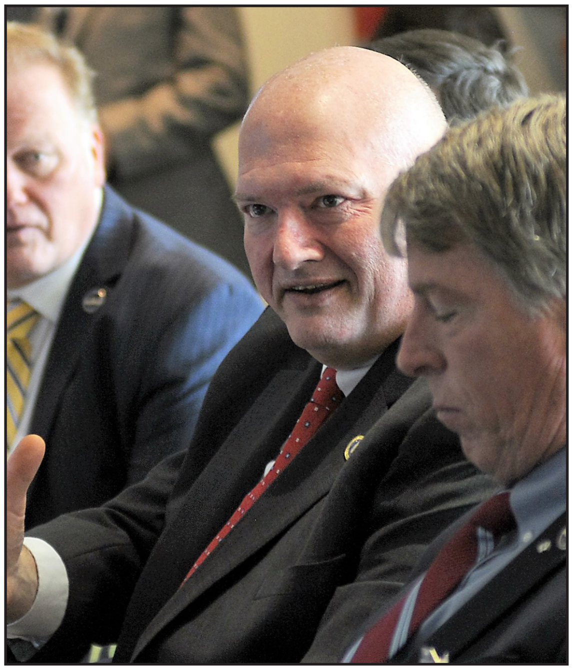
"We can flood the grid with power when we don't need it, but we're forcing the utility to buy that first," he said. "There's a cost involved in ratcheting down base load generation."

Sen. Jared Carpenter, R-Berea, who also co-chairs the committee, said lawmakers will continue to look at the issue as they consider cost, benefit and ultimately the value of certain energy sources.

"It's an important issue. It's about diversification," he said.

Competitive rates in the current market is the goal of Consumer Energy Alliance and its over 250 members, which include the Kentucky Chamber of Commerce, LG&E/KU and other CEA associate members in Kentucky.





Rep. Jeff Greer, D-Brandenburg, comments during the Nov. 9 meeting, which was held at the Kentucky Transportation Cabinet headquarters in Frankfort.

Homeland,

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Kentucky's Office of Homeland Security includes a Fusion Center that monitors terrorism, cyber threats and organized crime. The center also handles social media analysis, critical infrastructure and geospatial analysis, which Holiday outlined as the next step in providing the most useful data to local communities.

"But, we do want to stress that any future reduction in funding will directly affect the capabilities of our office to mitigate these ever-increasing and ever-evolving threats," he said. "With threats growing and evolving and resources diminishing, we have to get creative."

The deputy executive director of the office, Mike Sunseri, said that in 2004 the office had a $44 million budget. That dropped to a little less than $4 million this year.

In response to a question by Rep. Jeff Greer, D-Brandenburg, Holiday also spoke about the need for homeland security on the local level and said the state will roll out a hometown security advisory program early next year.

"It is my opinion the local community should always take the lead," Holiday said. "Our analysts are going to have certain parts of the entire state that they're going to manage. They're going to create those liaisons and have real-time data."

Sen. Whitney Westerfield, R-Hopkinsville, suggested the office use data from Kentucky's criminal court system to spot trends.

Holiday said that might come in the future. He added that the people on the ground in local communities would update the state's geographical mapping system in real time to allow for timely analysis of trends and security issues across Kentucky.

Housing,

from page 1

(which provides affordable housing for single parents who are full-time students until they finish their higher education), the 14-site Recovery Kentucky residential substance abuse program, and three projects in Somerset, Springfield and Owsley County in which KHC partnered with state agencies and local cities and counties to replace or renovate blighted property, King said.

In Somerset, six dilapidated single-family homes were demolished and rebuilt using federal community block grant funds and HOME investment partnership funds with KHC's help, said Beran. Priority for the homes was given to low-income, elderly and disabled persons, she reported to the committee.

"The total economic impact of not only finishing those structures but strengthening the community in terms of that economic power was $719,000," Beran said.

In downtown Springfield, KHC partnered with the Department of Local Government to create seven one- and two-bedroom rental apartments for senior citizens by rehabilitating an historic building into the Robertson Apartments, said Beran. The total economic impact of that project totals over $1.4 million, she said.

Similar local success was achieved in Owsley County where Beran said various funding sources were used to build 21 houses in the Maple Lick and Milltown subdivisions. The average income for each of the households, Beran said, was $14,879.

> Among the KHC revitalization projects reported to the committee were the Scholar House program, Recovery Kentucky program and projects in Somerset, Springfield and Owsley County.

"Looking at the overall impact… (the development) leveraged a total economic impact of $655,000 for Owsley County. So, again, it creates those necessary and needed affordable housing units for the residents, but also then brings the economic impact to the particular jurisdiction," she said.

In reference to Scholar House—which has locations in most every region of the state—Local Government Committee Vice Chair Rep. Rob Rothenburger, R-Shelbyville, asked King and his colleagues the maximum length of stay for residents.

"As long as they're meeting their requirements, they can stay until they've finished their education," said King.

Rothenburger commented on the success of affordable housing programs in his county, where KHC partnered with a local developer to build affordable senior citizen housing. It only took three weeks for the first phase of 42 completed units to be claimed by seniors, he said.

"I want to tell you how successful that program is and how much our seniors in Kentucky appreciate that because now, they don't have to make a choice of whether they're going to pay rent, utilities, or medicine payments each month," Rothenburger said. "They can move in, and they can relax and enjoy life."

2018 REGULAR SESSION CALENDAR

JANUARY

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

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

FEBRUARY

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

MARCH

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

APRIL

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

( ) Denotes Legislative Day

2017 Kentucky General Assembly

Senate

Julie Raque Adams (36)
213 S Lyndon Lane
Louisville, KY 40222
(LRC) 502-564-8100
(LRC) 502-564-8100

Ralph Alvarado (28)
3250 McClure Road
Winchester, KY 40391
(LRC) 502-564-8100

Joe Bowen (8)
2031 Fieldcrest Dr
Owensboro, KY 42301
(LRC) 502-564-8100
(Home) 270-685-1859

Tom Buford (22)
409 W Maple St
Nicholasville, KY 40356
(LRC) 502-564-8100
(LRC FAX) 502-564-2466
(Home) 859-885-0606
(Home FAX) 859-885-0606

Jared Carpenter (34)
PO Box 100
Berea, KY 40403
(LRC) 502-564-8100

Danny Carroll (2)
220 Cimarron Way
Paducah, KY 42001
(LRC) 502-564-8100
(Home) 270-703-8025

Julian M. Carroll (7)
702 Capitol Ave
Annex Room 254
Frankfort, KY 40601
(LRC) 502-564-8100

Perry B. Clark (37)
5716 New Cut Rd
Louisville, KY 40214
(LRC) 502-564-8100
(Home) 502-366-1247

C.B. Embry Jr. (6)
PO Box 1215
Morgantown, KY 42261
(LRC) 502-564-8100
(Home) 270-526-6237

Rick Girdler (15)
702 Capitol Ave
Annex Room 209
Frankfort, KY 40601
(LRC) 502-564-8100

David P. Givens (9)
PO Box 12
Greensburg, KY 42743
(LRC) 502-564-8100

Denise Harper Angel (35)
2521 Ransdell Ave
Louisville, KY 40204
(LRC) 502-564-8100
(Home) 502-452-9130

Ernie Harris (26)
PO Box 1073
Crestwood, KY 40014
(LRC) 502-564-8100
(Home) 502-241-8307

Jimmy Higdon (14)
344 N Spalding
Lebanon, KY 40033
(LRC) 502-564-8100
(Home) 270-692-6945

Paul Hornback (20)
6102 Cropper Rd
Shelbyville, KY 40065
(LRC) 502-564-8100

Stan Humphries (1)
763 Sinking Fork Rd
Cadiz, KY 42211
(LRC) 502-564-8100
(Home) 270-522-0195

Ray S. Jones II (31)
PO Drawer 3850
Pikeville, KY 41502
(LRC) 502-564-8100
(Work) 606-432-5777
(Work FAX) 606-432-5154

Alice Forgy Kerr (12)
3274 Gondola Dr
Lexington, KY 40513
(LRC) 502-564-8100
(Home) 859-223-3274

Christian McDaniel (23)
PO Box 15231
Latonia, KY 41015
(LRC) 502-564-8100

Morgan McGarvey (19)
2250 Winston Ave
Louisville, KY 40205
(LRC) 502-564-8100
(Home) 502-589-2780

Stephen Meredith (5)
702 Capitol Avenue
Annex Room 229
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 270-287-9849
(Work) 270-230-3301

Gerald A. Neal (33)
462 S 4th St
Meidinger Twr, Ste. 1250
Louisville, KY 40202
(LRC) 502-564-8100
(Home) 502-776-1222
(Work) 502-584-8500
(Work FAX) 502-584-1119

Dennis Parrett (10)
731 Thomas Rd
Elizabethtown, KY 42701
(LRC) 502-564-8100
(Home) 270-765-4565

Dorsey Ridley (4)
4030 Hidden Creek Dr
Henderson, KY 42420
(LRC) 502-564-8100
(Home) 270-826-5402
(Work) 270-869-0505

Albert Robinson (21)
1249 S Main St
London, KY 40741
(LRC) 502-564-8100
(Home) 606-878-6877

John Schickel (11)
2147 Natches Trace
Union, KY 41091
(LRC) 502-564-8100

Wil Schroder (24)
25 Observatory Pointe Dr.
Wilder, KY 41076
(LRC) 502-564-8100

Dan "Malano" Seum (38)
1107 Holly Ave
Fairdale, KY 40118
(LRC) 502-564-8100
(Home) 502-749-2859

Brandon Smith (30)
124 Craig Street
Hazard, KY 41702
(LRC) 502-564-8100
(Home) 606-436-4526
(Home FAX) 606-436-4526

Robert Stivers II (25)
207 Main St
Manchester, KY 40962
(LRC) 502-564-8100
(Home) 606-598-8575
(Work) 606-598-2322
(Work FAX) 606-598-2357

Damon Thayer (17)
105 Spyglass Dr
Georgetown, KY 40324
(LRC) 502-564-8100

Reginald Thomas (13)
702 Capitol Ave
Annex Room 255
Frankfort, KY 40601
(LRC) 502-564-8100
(LRC FAX) 502-564-0777

Johnny Ray Turner (29)
849 Crestwood Dr
Prestonsburg, KY 41653
(LRC) 502-564-8100
(Home) 606-889-6568

Robin L. Webb (18)
404 W Main St
Grayson, KY 41143
(LRC) 502-564-8100
(Home) 606-474-5380

Stephen West (27)
202 Vimont Ln
Paris, KY 40361
(LRC) 502-564-8100

Whitney Westerfield (3)
700 South Main Street
PO Box 1107
Hopkinsville, KY 42241
(LRC) 502-564-8100
(Work) 270-885-7671

Mike Wilson (32)
631 Washington Avenue
Bowling Green, KY 42103
(LRC) 502-564-8100

Max Wise (16)
126 Cox Cove
Campbellsville, KY 42718
(LRC) 502-564-8100

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

2017 Kentucky General Assembly

House

Rocky Adkins (99)
PO Box 688
Sandy Hook, KY 41171
(LRC) 502-564-8100
(Home) 606-738-4242
(Work) 606-928-0407
(Work FAX) 606-929-5913

Lynn Bechler (4)
2359 Brown Mines Rd
Marion, KY 42064
(LRC) 502-564-8100
(Home) 270-988-4171

Danny Bentley (98)
702 Capitol Avenue
Annex Room 329J
Frankfort KY 40601
(LRC) 502-564-8100

Robert Benvenuti III (88)
2384 Abbeywood Rd
Lexington, KY 40515
(LRC) 502-564-8100
(Home) 859-421-1464

John Blanton (92)
702 Capitol Avenue
Annex Room 329H
Frankfort, KY 40601
(LRC) 502-564-8100

Kevin D. Bratcher (29)
10215 Landwood Dr
Louisville, KY 40291
(LRC) 502-564-8100
(Home) 502-231-3311

Larry Brown (95)
702 Capitol Avenue
Annex Room 329I
Frankfort, KY 40601
(LRC) 502-564-8100
(Work) 606-886-8132

George Brown Jr. (77)
424 E Fourth Street
Lexington, KY 40508
(LRC) 502-564-8100
(Home) 859-312-7513

Tom Burch (30)
4012 Lambert Ave
Louisville, KY 40218
(LRC) 502-564-8100
(Home) 502-454-4002

McKenzie Cantrell (38)
702 Capitol Avenue
Annex Room 424A
Frankfort, KY 40601
(LRC) 502-564-8100

John Carney (51)
PO Box 4064
Campbellsville, KY 42719-4064
(LRC) 502-564-8100
(Home) 270-403-7980

Matt Castlen (14)
7549 Iceland Road
Maceo, KY 42355
(LRC) 502-564-8100

Tim Couch (90)
PO Box 710
Hyden, KY 41749
(LRC) 502-564-8100
(Home) (606) 672-8999
(Home FAX) 606-672-8998

Will Coursey (6)
285 Oak Level Elva Rd
Symsonia, KY 42082
(LRC) 502-564-8100
(Home) 270-851-4433

Jim DeCesare (17)
PO Box 122
Rockfield, KY 42274
(LRC) 502-564-8100
(Home) 270-792-5779
(Work) 270-792-5779

Jeffery Donohue (37)
PO Box 509
Fairdale, KY 40118
(LRC) 502-564-8100
(Work) 502-439-6175

Myron Dossett (9)
491 E Nashville St
Pembroke, KY 42266
(LRC) 502-564-8100
(Home) 270-475-9503

Jim DuPlessis (25)
102 Utah Court
Elizabethtown, KY 42701
(LRC) 502-564-8100

Daniel Elliott (54)
PO Box 2082
Danville, KY 40423
(LRC) 502-564-8100
(Home) 859-332-4204

Joseph M. Fischer (68)
126 Dixie Place
Ft Thomas, KY 41075
(LRC) 502-564-8100
(Home) 859-781-6965
(Work) 513-794-6442

Ken Fleming (48)
702 Capitol Avenue
Annex Room 351D
Frankfort, KY 40601
(LRC) 502-564-8100

Kelly Flood (75)
121 Arcadia Park
Lexington, KY 40503
(LRC) 502-564-8100
(Home) 859-221-3107

Chris Fugate (84)
702 Capitol Avenue
Annex Room 329G
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 606-233-5660

Al Gentry (46)
702 Capitol Avenue
Annex Room 432D
Frankfort, KY 40601
(LRC) 502-564-8100

Jim Gooch Jr. (12)
714 N Broadway B2
Providence, KY 42450
(LRC) 502-564-8100
(Home) 270-667-7327
(Work FAX) 270-667-5111

Derrick Graham (57)
702 Capitol Avenue
Annex Room 429J
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 502-223-1769

Jeff Greer (27)
PO Box 1007
Brandenburg, KY 40108
(LRC) 502-564-8100
(Home) 270-422-5100
(Home FAX) 270-422-5100

David Hale (74)
11 Hales Ln
Wellington, KY 40387
(LRC) 502-564-8100
(Home) 606-768-3474

Chris Harris (93)
719 Forest Hills Rd
Forest Hills, KY 41527
(LRC) 502-564-8100
(Home) 606-237-0055

Mark Hart (78)
702 Capitol Avenue
Annex Room 316E
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 859-654-4278

Angie Hatton (94)
20 Ohio St
Whitesburg, KY 41858
(LRC) 502-564-8100

Richard Heath (2)
438 Millers Chapel Rd
Mayfield, KY 42066
(LRC) 502-564-8100
(Home) 270-705-7539
(Work) 270-247-2210
(Work FAX) 270-247-2304

Toby Herald (91)
702 Capitol Avenue
Annex Room 329 B
Frankfort, KY 40601
(LRC) 502-564-8100

Jeff Hoover (83)
PO Box 985
Jamestown, KY 42629
(LRC) 502-564-8100
(Home) 270-343-2264
(Work) 270-343-5588

Dennis Horlander (40)
1806 Farnsley Rd, Ste 6
Shively, KY 40216
(LRC) 502-564-8100
(Home) 502-447-2498
(Work) 502-447-9000

Regina Huff (82)
179 Mountain St
Williamsburg, KY 40769-
(LRC) 502-564-8100
(Home) 606-549-3439

Kenny Imes (5)
4064 US 641 N
Murray, KY 42071
(LRC) 502-564-8100

Joni L. Jenkins (44)
2010 O'Brien Ct
Shively, KY 40216
(LRC) 502-564-8100
(Home) 502-447-4324

Dan Johnson (49)
702 Capitol Avenue
Annex Room 413E
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 502-445-9355
(Home FAX) 502-538-0877

2017 Kentucky General Assembly

DJ Johnson (13)
702 Capitol Ave
Annex Room 352B
Frankfort, KY 40601
(LRC) 502-564-8100

James Kay (56)
PO Box 1536
Versailles, KY 40383
(LRC) 502-564-8100

Dennis Keene (67)
1040 Johns Hill Rd
Wilder, KY 41076
(LRC) 502-564-8100
(Home) 859-441-5894

Kim King (55)
250 Bright Leaf Dr
Harrodsburg, KY 40330
(LRC) 502-564-8100
(Home) 859-734-2173

Adam Koenig (69)
170 Herrington Ct #12
Erlanger, KY 41018
(LRC) 502-564-8100
(Home) 859-653-5312

Stan Lee (45)
PO Box 2090
Lexington, KY 40588
(LRC) 502-564-8100
(Home) 859-252-2202
(Home FAX) 859-259-2927

Brian Linder (61)
16 Ridgeview Cir
Dry Ridge, KY 41035
(LRC) 502-564-8100

Mary Lou Marzian (34)
2007 Tyler Ln
Louisville, KY 40205
(LRC) 502-564-8100
(Home) 502-451-5032

Donna Mayfield (73)
2059 Elkin Station Rd
Winchester, KY 40391
(LRC) 502-564-8100
(Home) 859-745-5941

Chad McCoy (50)
702 Capitol Avenue
Annex Room 416B
Frankfort, KY 40601
(LRC) 502-564-8100

David Meade (80)
PO Box 121
Stanford, KY 40484
(LRC) 502-564-8100

Reginald Meeks (42)
PO Box 757
Louisville, KY 40201
(LRC) 502-564-8100
(Work) 502-741-7464

Michael Meredith (19)
PO Box 292
Brownsville, KY 42210
(LRC) 502-564-8100
(Work) 270-597-6049

Russ A. Meyer (39)
106 Lone Oak Drive
Nicholasville, KY 40356
(LRC) 502-564-8100

Suzanne Miles (7)
PO Box 21592
Owensboro, KY 42304
(LRC) 502-564-8100

Charles Miller (28)
3608 Gateview Cir
Louisville, KY 40272
(LRC) 502-564-8100
(Home) 502-937-7788

Jerry T. Miller (36)
PO Box 36
Eastwood, KY 40018
(LRC) 502-564-8100

Robby Mills (11)
702 Capitol Avenue
Annex Room 413C
Frankfort, KY 40601
(LRC/Home) 502-564-8100

Phil Moffett (32)
812 Brookhill Rd
Louisville, KY 40223
(LRC) 502-564-8100

Tim Moore (18)
417 Bates Rd
Elizabethtown, KY 42701
(LRC) 502-564-8100
(Home) 270-769-5878

C. Wesley Morgan (81)
702 Capitol Avenue
Annex Room 405D
Frankfort, KY 40601
(LRC) 502-564-8100

Kimberly Poore Moser (64)
702 Capitol Avenue
Annex Room 351C
Frankfort, KY 40601
(LRC) 502-564-8100

Rick G. Nelson (87)
117 Gumwood Rd
Middlesboro, KY 40965
(LRC) 502-564-8100
(Home) 606-248-8828
(Home FAX) 606-248-8828

Jason Nemes (33)
702 Capitol Avenue
Annex Room 416C
Frankfort, KY 40601
(LRC) 502-564-8100

David Osborne (59)
PO Box 8
Prospect, KY 40059
(LRC) 502-564-8100
(Home) 502-228-3201
(Work) 502-645-2186

Sannie Overly (72)
340 Main St
Paris, KY 40361
(LRC) 502-564-8100
(Home) 859-987-9879

Darryl T. Owens (43)
1018 S 4th St, Ste 100
Louisville, KY 40203
(LRC) 502-564-8100
(Home) 502-584-6341

Ruth Ann Palumbo (76)
10 Deepwood Dr
Lexington, KY 40505
(LRC) 502-564-8100
(Home) 859-299-2597

Jason Petrie (16)
702 Capitol Avenue
Annex Room 351B
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 270-265-3163
(Home FAX) 270-265-3164

Phillip Pratt (62)
702 Capitol Avenue
Annex Room 316A
Frankfort, KY 40601
(LRC) 502-564-8100

Melinda Gibbons Prunty (15)
PO Box 411
Greenville, KY 42345
(LRC) 502-564-8100

Marie Rader (89)
PO Box 323
McKee, KY 40447
(LRC) 502-564-8100
(Home) 606-287-7303
(Work) 606-287-3300
(Work FAX) 606-287-3300

Rick Rand (47)
PO Box 273
Bedford, KY 40006
(LRC) 502-564-8100
(Home) 502-255-3392
(Work) 502-255-3286
(Work FAX) 502-255-9911

Brandon Reed (24)
702 Capitol Avenue
Annex Room 402
Frankfort, KY 40601
(LRC) 502-564-8100
(Work) 270-358-0868

Jody Richards (20)
817 Culpeper St
Bowling Green, KY 42103
(LRC) 502-564-8100
(Home) 270-842-6731

Steve Riggs (31)
PO Box 24586
Louisville, KY 40224
(LRC) 502-564-8100
(LRC FAX) 502-564-6543

Steve Riley (23)
702 Capitol Avenue
Annex Room 352C
Frankfort, KY 40601
(LRC) 502-564-8100
(Home)270-646-6821

Rob Rothenburger (58)
702 Capitol Avenue
Annex Room 351E
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 502-633-5832

Bart Rowland (21)
PO Box 336
Tompkinsville, KY 42167
(LRC) 502-564-8100

Steven Rudy (1)
350 Peppers Mill Drive
Paducah, KY 42001
(Home) 270-744-8137
(LRC) 502-564-8100

Sal Santoro (60)
12094 Jockey Club Dr
Union, KY 41091
(LRC) 502-564-8100
(Home) 859-371-8840
(Home FAX) 859-371-4060

Dean Schamore (10)
120 Ball Park Rd
Hardinsburg, KY 40143
(LRC) 502-564-8100

Attica Scott (41)
702 Capitol Avenue
Annex Room 432C
Frankfort, KY 40601
(LRC) 502-564-8100

2017 Kentucky General Assembly

Jonathan Shell (71)
PO Box 138
Lancaster, KY 40444
(LRC) 502-564-8100

Arnold Simpson (65)
112 W 11th St
Covington, KY 41011
(LRC) 502-564-8100
(Home) 859-581-6521
(Home FAX) 859-261-6582
(Work) 859-261-6577

John Sims Jr (70)
702 Capitol Avenue
Annex Room 429C
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 606-748-1839

Kevin Sinnette (100)
PO Box 1358
Ashland KY 41105
(LRC) 502-564-8100
(Home) 606-324-5711
(Home FAX) 606-329-1430

Diane St. Onge (63)
523 Kluemper Court
Fort Wright KY 41011
(LRC) 502-564-8100
(Home) 859-341-1231

Jim Stewart III (86)
545 KY 223
Flat Lick, KY 40935
(LRC) 502-564-8100
(Home) 606-542-5210

Wilson Stone (22)
1481 Jefferson School Road
Scottsville, KY 42164
(LRC) 502-564-8100
(Home) 270-622-5054

Walker Thomas (8)
702 Capitol Avenue
Annex Room 413F
Frankfort, KY 40601
(LRC) 502-564-8100
(Home) 270-889-8091
(Home FAX) 270-885-5335

James Tipton (53)
8151 Little Mount Rd
Taylorsville, KY 40071
(LRC) 502-564-8100

Tommy Turner (85)
175 Clifty Grove Church
Somerset, KY 42501
(LRC) 502-564-8100
(Home) 606-274-5175

Ken Upchurch (52)
PO Box 969
Monticello, KY 42633
(LRC) 502-564-8100
(Home) 606-340-8490

Gerald Watkins (3)
4317 Pines Rd
Paducah, KY 42001
(LRC) 502-564-8100
(Home) 270-558-5139

Jim Wayne (35)
1280 Royal Ave
Louisville, KY 40204
(LRC) 502-564-8100
(Work) 502-303-3732

Russell Webber (26)
PO Box 6605
Shepherdsville, KY 40165
(LRC) 502-564-8100
(Home) 502-543-8209

Scott Wells (97)
702 Capitol Avenue
Annex Room 413D
Frankfort, KY 40601
(LRC) 502-564-8100

Susan Westrom (79)
PO Box 22778
Lexington, KY 40522
(LRC) 502-564-8100
(Work) 859-266-7581

Addia Wuchner (66)
PO Box 911
Burlington, KY 41005
(LRC) 502-564-8100
(Work) 859-525-6698

Jill York (96)
PO Box 591
Grayson, KY 41143
(LRC) 502-564-8100
(Work) 606-474-7263
(Work FAX) 606-474-7638

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

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INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 5th Meeting of the 2017 Interim

October 5, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, October 5, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Ernie Harris, John Schickel, Brandon Smith, Johnny Ray Turner, and Whitney Westerfield; Representatives John Blanton, McKenzie Cantrell, Matt Castlen, Tim Couch, Jeffery Donohue, Jim DuPlessis, Daniel Elliott, Chris Fugate, Dennis Keene, Reginald Meeks, Suzanne Miles, Marie Rader, Jim Stewart III, Jim Wayne, and Jill York.

Guests: Paul Bailey, President and Chief Executive Officer, American Coalition for Clean Coal Electricity (ACCCE); Terrance Naulty, General Manager and Chief Executive Officer, Owensboro Municipal Utilities (OMU), and Treasurer, Kentucky Municipal Energy Agency (KyMEA); Josh Callihan, Vice-Chair of KyMEA, President, Kentucky Municipal Utilities Association (KMUA), and General Manager, Barbourville Utility Commission; Ron Herd, Chair of KyMEA, and General Manager, City Utilities Commission of Corbin; and Rusty Cress, Kentucky League of Cities.

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

The September 7, 2017, minutes were approved by unanimous voice vote.

The Status of the National Coal Fleet

Paul Bailey provided a brief overview of ACCCE and stated its mission was to advocate for the coal-fired electric generation fleet. ACCCE members include coal producers, railroads, and equipment manufacturers. The coal fleet is needed to provide reliable power, fuel security and diversity for grid reliability and resilience, and affordable electricity.

The coal fleet produced 30 percent of the electricity in the United States through the first half of 2017 and is projected to remain at 30 percent for the next 15 years. The coal fleet produced about 50 percent of the nation's electricity in 2007.

The coal fleet was at its peak in 2010 with a generating capacity of 318,000 megawatts. In 2017, the generating capacity is 262,000 megawatts. About one-third of the coal fleet has been retired or has announced plans to be retired. In Kentucky, eighteen coal-fired electric generating units have been retired or have announced plans to be retired, representing 3,900 megawatts of electric generating capacity.

Since 1970 the coal fleet has reduced emissions of traditional air pollutants by 92 percent per kilowatt-hour and will invest $127 billion for emission controls by the end of 2020.

The biggest obstacle for the coal fleet is policies from the Environmental Protection Agency (EPA). The Trump Administration has not appointed half of the fifteen key positions in the EPA, which has slowed how quickly the change from Obama-era environmental policy can be accomplished. The Clean Power Plan will be withdrawn. The Effluent Limitations Guidelines for liquid waste and Coal Combustion Residual rules for ash ponds will be rewritten. The New Source Review and New Source Performance Standards will be changed, and there is an expected change to the Regional Haze and Cross-State Air Pollution Rules.

According to the Department of Energy (DOE), natural gas and renewables will comprise almost 75 percent of electric generating capacity by 2040. The remaining 25 percent will be traditional baseload sources including coal and nuclear. A regional transmission organization and an independent system operator are crucial components to the future of the coal fleet.

ACCCE is an advocate for policy that recognizes the value of the coal fleet in maintaining grid reliability and resilience. Mr. Bailey defined resilience as maintaining a reliable grid in the event of high-impact, low-frequency events such as a polar vortex or disruptions in the natural gas infrastructure. The average on-site coal stockpile during February 2017 had the ability to generate electricity for one hundred days, which provides the coal fleet with fuel security.

On September 28, 2017, the DOE directed the Federal Energy Regulatory Commission to issue grid resiliency rules, because fuel-secure baseload generating resources are not being adequately compensated by the wholesale electricity markets. The new rule would require grid operators to fully compensate grid reliability and resiliency generating units if they provide reliability services, have a ninety day on-site fuel supply, and are not subject to cost of service regulation. The DOE created a 105 day schedule to finalize the proposal.

According to public opinion, a majority of Americans agree that coal is necessary to supplement other energy sources. Americans are more focused on electricity price and reliability than clean energy.

In response to Senator Harris, Mr. Bailey stated he does not know how many active coal-fired power plants there are in Kentucky.

In response to Representative Blanton, Mr. Bailey stated one of the reasons President Trump was elected was due to the decline of the coal industry and believes the administration will work to restore it. ACCCE is working with the National Mining Association on a grid operator project.

In response to Representative Gooch, Mr. Bailey said the electricity grid is rapidly changing. ACCCE is attempting to elevate the importance of the coal fleet and the need for diversity in electricity sources. The United States House Energy and Commerce Committee met on October 3, 2017. Most of the discussion was about gas, hydro, solar, and wind. Mr. Bailey estimates that 5 percent of the meeting was used to discuss the two largest sources of energy: coal and nuclear.

In response to Representative Wayne, Mr. Bailey stated that due to conservation, the growth in demand for electricity has been flat.

In response to Representative DuPlessis, Mr. Bailey stated that he did not know whether adding solar energy capacity in eastern Kentucky or removing regulatory constraints on coal mining and coal-fired electric generation sources in the area would lead to the quickest economic development.

In response to Representative Couch, Mr. Bailey stated there are currently more than one thousand individual coal-fired electric generating units in the nation.

Municipal Utility Joint Action Benefits to the Citizens of the Commonwealth

Terrance Naulty stated legislation was needed to most effectively use joint action to keep municipal electric rates as low as possible. Low municipal electric rates aid in economic development and protect the customer.

KyMEA has eleven members ranging from a small utility of 300 megawatts in Benham to a large utility of over 30,000 megawatts in Owensboro. The 11 members service approximately 80,000 retail electric customers. Ten of the members are underserved by KMUA for their wholesale power supply, because the members were able to source wholesale energy at a significant discount to the KMUA rates. Those ten members gave notice to terminate the deal with KMUA in 2014.

KyMEA is seeking legislative changes. The Interlocal Cooperation Act is ambiguous because all members are not authorized under the same KRS provisions and are subject to four different statutes. A single statutory authority will allow for quicker decision making and a higher agency credit rating that will lower electric rates.

The Joint Action Agency was formed because the individual municipal utilities are too small to gain economies of scale. A significant economy of scale can be created by bonding together power generation and the wholesale market. Other benefits to joint action are power supply expertise, enhanced member services, wholesale market access, and revenue bonds that will not create liability to individual cities. Protections for rate payers regarding power supply decisions will have at least three levels of review, approval, and public comment. The Kentucky Public Service Commission was added to the approval process.

The current supply portfolio precludes the need for KyMEA ownership, and there are no plans to build new power generation. There are contracts with Big Rivers, Dynergy, and Paducah Power System. There is consideration of renewable energy; however, non-taxed entities do not receive the available tax credits.

Natural gas is a commodity, and its trade is comparable to the stock market. A contract for natural gas will be structured as a tolling agreement. A portion of the facility is leased and natural gas that has already been acquired will be utilized. The sale of surplus natural gas requires a willing buyer and willing seller along with a contract.

The bond market is a cost effective way to issue debt. Municipal utility revenue bonds are rated independently based on the strength of revenue certainty. Access to low-cost debt for the benefit of citizen ratepayers through KyMEA is less risky than incurring debt at the municipal level.

In response to Representative Gooch, Mr. Naulty stated the OMU coal unit is closing due to economic reasons. Josh Callihan stated Barbourville Utilities will save approximately $950,000 annually due to joint action.

In response to Senator Embry, Rusty Cress stated joint action will be a legislative priority for the Kentucky League of Cities during the coming regular session. The board voted in support of the concepts on previous legislation.

In response to Senator Westerfield, Mr. Naulty stated Tennessee Valley Authority is neutral towards joint action.

In response to Representative Castlen, Mr. Naulty stated the peak demand will be between 250-300 megawatts. OMU had planned to sell surplus natural gas to extend the life of the plant that is closing in Owensboro. However, public agencies are subject to the model procurement code, so OMU was not able to sell natural gas below their cost.

In response to Representative Miles, Mr. Naulty stated the primary change to previous bills is a proposal for the Public Service Commission to hold hearings.

In response to Representative Stewart, Mr. Naulty stated the legislation is requesting clarification on ambiguity. If joint action passes it will save $200 million over first 10 years.

The next meeting of the Interim Joint Committee on Natural Resources and Energy will be on November 2, 2017. Documents distributed during the meeting are available in the LRC Library.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 5th Meeting of the 2017 Interim

October 6, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Agriculture was held on Friday, October 6, 2017, at 10:00 AM, at the E.S. Good Barn, University of Kentucky, Lexington, Kentucky. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators C.B. Embry Jr., Stan Humphries, Dennis Parrett, Damon Thayer, Stephen West, and Whitney Westerfield; Representatives Derrick Graham, Mark Hart, Angie Hatton, James Kay, Kim King, Suzanne Miles, Sannie Overly, Jason Petrie, Phillip Pratt, Brandon Reed, Rob Rothenburger, Dean Schamore, Wilson Stone, Walker Thomas, James Tipton, Tommy Turner, and Susan Westrom.

Guests: Dr. Nancy Cox, Dean, College of Agriculture, Food and Environment, University of Kentucky; Drew Graham, Assistant Dean, UK College of Agriculture, Food and Environment; Fabian Leon, Agricultural Biotechnology student, UK College of Agriculture, Food and

Environment; Dr. Chad Lee, Director, Grain and Forage Center of Excellence, University of Kentucky; Dr. Orlando Chambers, Director, Kentucky Tobacco Research and Development, University of Kentucky and Dr. Ling Yuan, Research Director, Kentucky Tobacco Research and Development Center, University of Kentucky.

LRC Staff: Tanya Monsanto, Stephen Kasacavage, Nathan Smith, and Susan Spoonamore, Committee Assistant.

The September 13, 2017 minutes were approved, by voice vote without objection, upon motion made by Senator Westerfield and seconded by Representative Reed.

Welcome and Opening Remarks

Dr. Nancy Cox, Dean, UK College of Agriculture, Food and Environment, welcomed members to the 12th year of meeting during UK Roundup. Dr. Cox said that there had been a 16 percent increase in freshmen enrollment/admissions, and there are now more prospective students looking at the College than at any point in the last ten years, looking at the college.

Dr. Cox introduced Fabian Leon, agricultural biotechnology student. Mr. Leon plans to obtain his Masters and Ph.D. in the plant and soil sciences discipline. Mr. Leon worked at the International Potato Center in Peru as an intern and as a Wallace Carver fellow for the USDA National Laboratory for Agriculture and the Environment. Dr. Cox noted that Mr. Leon has also been working in tobacco research as well.

Mr. Leon is a third year student in the College of Agriculture, Food and Environment (CAFÉ). The CAFÉ network has faculty and students who have helped him become a scientific researcher, and he has had the privilege of being a cooperative extension intern and worked for a tobacco specialist. Mr. Leon has published as a co-author of a scientific paper and has traveled across the United States attending professional development conferences and competing in national contests with Kentucky's Chapter of MANRRS (Minorities in Agriculture, National Resources and Related Sciences). Kentucky's Chapter of MANRRS has won the award for best chapter for the last five years. MANRRS is a national society that is centered on academic and professional leadership, and currently serves as the national undergraduate parliamentarian.

In response to Representative Tipton, Mr. Leon explained that his research goal was to determine the X protein interactions to complete localization map of the Sanguinolenta strain of potato yellow dwarf virus. "Genetically engineered" is a broad term that can be used when researching DNA of an organism.

Grain and Forage Center of Excellence

Dr. Chad Lee, Director, UK Grain and Forage Center of Excellence (Center) explained that the concept of the Grain and Forage Center of Excellence began as a conversation about how the University of Kentucky College of Agriculture, Food and Environment could attract talented people to study relevant questions on production agriculture. The Kentucky Agricultural Development Board awarded UK a $15 million grant and UK is charged with matching another $15 million over five years. The University of Kentucky is in the final phases of architectural drawings and is about to launch the bidding process. The scheduled date for the official groundbreaking ceremony is March 15, 2018. There are several partners helping with fundraising and the Center received contributions from Kentucky's commodity organizations. UK has raised approximately $5 million, between research dollars and donations.

In response to Representative Rothenburger, Dr. Lee said that part of the fundraising is to help with endowments as well as research grant money to sustain the financial sustainability of the center.

Dr. Lee stated that because of the investments being made in the Center, the Center has attracted new faculty, graduate and undergraduate student interns. The center has the best applied plant pathologists in the country to work on corn, soybeans and wheat research.

Technology in Tobacco Research and Regulation

Dr. Orlando Chambers, Director, Kentucky Tobacco Research and Development Center (KTRDC) said that over the last few years the facilities and research equipment have been upgraded with some funding from the Food and Drug Administration (FDA). Tobacco is still a very important crop to Kentucky with cash receipts of $285 million. There is a next generation of tobacco products, such as heat-not-burn and electronic nicotine delivery systems (ENDS), that are changing the market and regulations. The FDA will continue to propose new standards and levels of certain constituents in tobacco products. Changing markets and new regulations guide research at the KTRDC to address issues and help growers to be sustainable.

Dr. Chambers said that the tour of the KTRDC facility would include discussion on the tobacco breeding program, disease screening and the use of technological programs to develop new varieties of tobacco. The world-class academic analytical lab provides production research such as measuring constituents in tobacco products and highlights the tobacco reference products. The final discussion would be on research of new crop opportunities including industrial hemp, Artemisia, and tobacco-derived industrial materials.

In response to Chairman Hornback, Dr. Ling Yuan said that research is looking at ways to prevent hemp seed shattering.

In response to Representative Stone, Dr. Chambers said that KTRDC is continuing with tobacco production research.

Upon conclusion of the tour, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 5th Meeting of the 2017 Interim

October 9, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Education was held on Monday, October 9, 2017, at 1:30 PM, in the North American Production Support Center at Toyota Motor Manufacturing, Georgetown, Kentucky. Representative John Carney, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John Carney, Co-Chair; Senator Max Wise, Interim Co-Chair; Senators Julie Raque Adams, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Reginald Thomas, Johnny Ray Turner, Stephen West, and Mike Wilson; Representatives Danny Bentley, Mark Hart, Regina Huff, Reginald Meeks, Phil Moffett, Kimberly Poore Moser, Rick G. Nelson, Jody Richards, Steve Riley, Attica Scott, James Tipton, Russell Webber, and Jill York.

Legislative Guests: Senator Damon Thayer, Senate Majority Floor Leader; Representative Johnathan Shell, House Majority Floor Leader.

Guests: Eric Kennedy, Director of Governmental Relations, Kentucky School Board Association; Jo Ellen Reed, Bluegrass Community and Technical College; Mark Manuel, Vice President of Advancement and Organizational Development, Bluegrass Community and Technical College; Wayne Young, Executive Director, Kentucky Association of School Administrators; Jennifer Krieger, Budget Review Analyst, Legislative Research Commission; Sharon Johnston, Director of College and Career Prep, Kentucky Adult Education.

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

Approval of Minutes

Representative York made a motion, seconded by Representative Nelson, to approve the minutes of the September 18, 2017, meeting. The motion passed by voice vote.

Senator Damon Thayer, Senate Majority Floor

Leader, and Representative Mark Hart welcomed members to their districts and thanked the staff of Toyota Motor Manufacturing for opening their doors to the committee. Senator Thayer asked the committee to observe a moment of silence for former State Senator Richard L. "Dick" Roeding who passed away Friday, October 6, 2017. Senator Roeding represented Senate District 24 and then Senate District 11 from 1991 to 2009, also serving in various Senate leadership positions.

Chairman Carney thanked staff for their assistance in organizing the meeting. He congratulated Senator Wilson on his election to Senate Majority Whip and welcomed Senator Max Wise as the Interim Co-Chair.

Welcome – Toyota Motor Manufacturing

Mr. Kim Menke, Regional Director, Government Affairs Office, Toyota Motor North America, welcomed members and presented background about Toyota Motor Manufacturing in Georgetown. Toyota is equally committed to developing a college and career ready workforce through its investment of over $1.5 billion in the Georgetown factory to maintain its global competitiveness, making it the largest and most complete Toyota manufacturing facility in the world. This investment is also going to support the supply chain of industries, not just the Georgetown plant, so the impact will be felt throughout the region. The team of industries supporting this initiative will need a broad spectrum of career pathways that require both technical and essential skills to succeed. Mr. Menke thanked the committee for their commitment to skills development and being a workforce development partner with Toyota.

2017 House Bill 454 – Essential Skills

Representative Johnathan Shell, House Majority Floor Leader, provided an overview of his essential skills legislation from the 2017 Regular Session and discussed ways that it had been improved during the interim. Throughout his legislative career, he has repeatedly heard from employers that their second biggest concern was finding employees with soft skills or essential skills and drug-free lifestyles. His bill was an attempt to address this by providing a framework for schools to require students to develop these skills and be drug-free. While students are graduating with the necessary technical knowledge, they are not employable because they were not trained in essential skills. He mentioned a discussion with a teacher who did not want her students to be the smartest ones in an unemployment line; she supported efforts to require essential skills education.

Some examples of essential skills targeted by his legislation are teamwork, communication, punctuality, problem resolution, and a drug-free lifestyle. The lack of these skills is a problem in across the state and is a problem of the current society. He recognizes that some school districts are doing exemplary work in these areas and whose efforts are not being taken into consideration in the current accountability model. Many of the larger districts are doing very well, but the models need to be spread to other districts.

Representative Shell said that Kentucky has made great strides to level the field for economic development with neighboring states. Now is the time to make sure that schools are providing the necessary workforce to attract and retain businesses. He addressed misconceptions about his bill, specifically the drug testing element, which he said is a strictly optional component and should be supported with a robust K-12 drug-free education program.

Essential Skills and Kentucky's Workforce

Dave Adkisson, President and CEO, Kentucky Chamber of Commerce, and Ankur Gopal, CEO, Interapt, discussed essential skills from the point of view of business owners. Mr. Adkisson echoed that these skills are important to Chamber members. Since the recession, there have been issues finding the necessary numbers of employees, which has been made worse with the large number of Baby Boomers retiring. Companies that wish to expand are finding it difficult because they cannot find needed employees; even Toyota faced this challenge when it accepted the new Lexus contract because of the aging workforce. These struggles are felt all along the supply chain among businesses of all sizes and kinds of industry. The discussion of essential skills sometimes involves comparisons of the work ethic of Boomers versus Millennials, but it really boils down to the skills needed to get and maintain employment. Mr. Adkisson said this was such an important topic that he and the Chamber had worked with Commissioner Pruitt to include these skills in the new accountability program; this will remain a top priority of the Chamber agenda in the next year.

Mr. Gopal is an owner of a software development firm in Louisville who has worked with other companies to develop technology. The average age of his employees is 27 to 28 years old. Because of the difficulty he was having in finding qualified work-ready employees, he began a training program to teach potential employees the skills necessary to work in a software development environment. The difference in those that were successful and those that were not was based more on lack of essential skills than technical knowledge. Successful employees had the ability to communicate effectively and displayed conflict resolution skills, and these were things that some simply did not know how to do. All it would take to elevate them would be the time necessary to teach these simple, but essential, skills. Since then, he has begun a training program specifically for those skills that are essential to keeping a job. This was not just another thing for teachers to do because it is necessary to fully prepare students.

Chairman Carney agreed that these skills should not be called "soft skills" because there is nothing soft about losing a job over lack of a job.

In response to questions from Representative Tipton, Mr. Adkisson stated that he did not know the exact number of jobs that were remaining unfilled due to lack of qualified applicants, but that he estimated it to be in the tens of thousands. He discussed studies in Bowling Green and Northern Kentucky about the precise needs of those regions and said the Cabinet for Education and Workforce Development may have more precise data. Mr. Adkisson acknowledged that workforce participation is critical for supporting the pension systems and a key part to addressing that is addressing the large numbers of current unemployed and getting them skilled for the workforce. Mr. Gopal added that companies should get involved in the development of training programs for those that have technical skills but need the essential skills, particularly apprenticeship style programs for non-college graduates. Mr. Adkisson stated that if Kentucky could reach the national average for workforce participation, there would be approximately 165,000 more workers and there are at least that many job openings already available. Kentucky needs to think about incarceration differently and take strides to better reintroduction programs. Workforce development and economic development are synonymous. Mr. Gopal said that his company was in the process of taking his essential skills training program to high schools with assistance from the Fund for Transforming Education in an effort to reach those students who were already disillusioned by the traditional education setting.

Chairman Carney commented that businesses need to be willing to create that kind of partnership with schools in order to offset the costs of developing and implementing essential skills training programs. Representative Riley agreed.

In response to a question from Representative Meeks, Mr. Adkisson said that essential skills legislation as presented in Representative Shell's bill was not a silver bullet, but rather is seeking to address concerns that have been growing over the last three to five years. Because education and workforce development are so closely linked, it is necessary to incorporate these measures in schools now, but that may not mean there are no other steps that will need to be taken in the future. Mr. Gopal said that as a business owner in a rapidly changing technology industry, he is willing to teach the necessary technical skills to an employee who has already demonstrated the essential skills for workplace success. Twelve-month employability, completed apprenticeships, and taking advantage of on-the-job training opportunities are all good metrics to use to determine if a program is working. Representative Shell said that his bill from last session did include a framework for forming a collaborative group of educators and business leaders who would determine which essential skills would be included in the required curriculum. That group would also have authority to re-evaluate and change the requirements in the future if necessary. As it was so important, he agreed to include that flexibility in the new bill as it was being drafted.

Representative Moffett said he appreciated the emphasis being placed on cracking the 1950s model of education and shifting to technical certifications over traditional degrees. He also stated that he appreciated efforts to change the framework to alleviate state control over education paradigms.

In response to Representative Turner's question, Mr. Gopal answered that he had worked with Bitsource in the past and considered them pioneers in eastern Kentucky. He said the work he did with industry partners all over the state had really highlighted that this is a state-wide concern that would build up all areas if addressed. Planting the seeds for success was critical for creating opportunity for all.

Senator Meredith said that largely these programs did not seem to be intervening soon enough. He hopes to see these programs implemented in elementary schools and be combined with a change in the welfare distribution system to incentivize change. He hopes to see tangible measures of success included in the bill.

Implementing Essential Skills

Daniel Carney, Executive Director, Springfield/Washington County Economic Development, spoke of the disconnect in Washington County between schools and business leaders when first developing their career pathways programs. After creating collaborative partnerships, it was evident that essential skills education was a need faced by all businesses, regardless of specialty. Resulting from that, Washington County developed a voluntary program, called the Work Ready Seal, with some scholarship incentive to enroll students in essential skills training. Students who participate also have opportunities to interview with area employers and successful program completion results in a seal on their diploma, which is a signifier to future employers. While this is not the only answer to the problems his area faces in regards to workforce participation and economic development, he feels this is a step in the right direction.

John Wright, Community Relations Director, Hardin County Public Schools, spoke next on the development of an essential skills program in his schools, called the Work Ethic Certification Program. In 2012, he had accompanied some local business leaders on a visit to the Elkhorn Crossing School, an area college and career center, as a way to preview the kinds of instruction they were anticipating starting in the Hardin County Early College and Career Center. Unfortunately, he said, they were not as enthusiastic as he had hoped, saying that instead of so much focus on technical skills, they would prefer more emphasis placed on teaching essential skills. At that time, they developed and implemented their essential skills program, graduating 61 students as work ethic certified out of 800-900 high school seniors. While school staff felt that was a very poor ratio, the local papers lauded the achievement and the program has continued to grow. Mr. Wright said that last year in Hardin County, 450 students earned a work ethic certification. The intensive program they developed requires students to strive to achieve the certification. In addition to receiving the certification, students are also guaranteed an interview with a local employer upon graduation. However, this has not resulted in an increase of students becoming employed, so Mr. Wright noted there are clearly aspects of their program that need continued work. As a first step, they have expanded emphasis on work ethic to all grade levels by displaying their "Great Eight" standards on posters in classrooms from kindergarten through high school. He said the approach is similar to that of the program "The Leader in Me" which is too costly for Hardin County Public Schools to implement at all grade levels.

Lee Barger, Director of College and Career Readiness/Innovative Programs, Bullitt County Public Schools and Brandy Scott, College and Career Coach, Spencer County Public Schools, presented a regional approach they had taken that combines the needs of both counties. Ms. Scott said that there is mandatory participation in their essential skills program starting in 4th Grade. The program has different areas of focus and different requirements for each grade level in elementary, middle, and high school. Additionally, the program targets all students whether they are doing a college or a career track as they feel the skills are valuable life skills regardless of whether students plan to immediately enter the workforce upon graduation or go to a postsecondary institution. Students who complete the program are also guaranteed an interview with local employers upon high school graduation or college graduation. In keeping with their attempts to make students of their program life ready, they have recently added a financial management portion. Mr. Barger said that it truly represents a paradigm shift in what is important to be teaching and he is a believer after seeing the results they have achieved.

Chairman Carney said that this panel well-represented the breadth of Kentucky. If all of these various interests are coming to the General Assembly to ask for support, then the legislature should step up this coming legislative session to answer the call. Senator Wilson commended the presenters for their efforts and for the ways they were requiring students to prove themselves. The variety of programs showed the creativity and innovation that schools were capable of to address Kentucky's needs.

Representative Tipton said that the passion of the members of the panel was evident, and he looked forward to visiting several of their schools to witness the programs in action and learn how best to assist them in their efforts.

In response to a question from Representative York regarding the Junior Achievement program, Ms. Scott said that the curriculum comes as a resource kit that is paid for through sponsorships from community partners. The larger issue is in getting volunteer instructors, so many teachers have stepped in to assist in implementation by incorporating it into their classrooms. The best part of the Junior Achievement program is its ability to get buy in from the students as well. Mr. Wright added that the difficulty getting volunteers was also a barrier for Hardin County Public Schools and that was what led them to create their own high school curriculum. They use Junior Achievement in the 8th Grade via tele-teaching methods from which they have gotten positive feedback.

Representative York commented that these skills should be seen as more than workforce skills, but rather as life skills that bring stability to children coming from chaotic lives. Mr. Wright agreed that the world has significantly changed in the last 30 years and schools need to change with it. In many ways, teaching students these life skills is easier than getting them proficient or distinguished on K-PREP tests.

In response to a question from Representative Meeks, Mr. Wright said that in the same time that the program has been in effect, there has been an increase in the number of college-bound graduates. He is not sure that can be fully attributed to the work ethic program, but it is likely a contributing factor. Students have reported that being part of the work ethic program makes them more productive and employers have been highly supportive of the shift. Mr. Barger said that they have begun collecting data on what prevents a student from achieving work ethic certifications in order to know what areas to address in order to graduate more students with the certification. Mr. Carney commented that he did not have any hard data, but overwhelming he had heard anecdotal support that the skills are a benefit to students at all levels and in all pathways.

Representative Moser commented that all of the models were impressive, but the inclusion of a drug control policy was particularly important. Understanding and addressing the underlying causes of problems in our society was essential to success and drug use is a critical concern in so many homes. She would like to see all of the programs implement an early childhood intervention element which included not simply living drug-free, but also coping skills and resilience for young children who may encounter drug abuse at home. She said that this is a philosophy that needs to permeate the school atmosphere.

Essential Skills Through Technology – Fayette County Public Schools

Kim Lyon, Strategic Partnership Manager, Fayette County Public Schools said that in regards to teaching essential skills, the "devil is in the details." Throughout the many presentations it had been proven that there is no question that essential skills should be taught but questions remained of how they should be taught to ensure that all students are prepared for life after high school. To that end, Fayette County Public Schools had partnered with the Chamber of Commerce and the Ford Next Generation Learning Initiative to create the Academies of Lexington. This resulted in the restructuring of three high schools into academies, similar to magnet schools, which create a learning and teaching environment more conducive to business partnerships. Essential skills training is incorporated into all aspects of teaching and therefore students develop the skills over time through experiences which require their use and practice. And because these skills cannot be tested in the same way that technical skills are, Fayette County Public Schools uses technology to measure each student's success.

Chris Salyers, Principal, The Learning Center, said that his school is an alternative school and as such presented unique challenges to teaching essential skills. The most effective tactic was framing essential skills as employability skills so his students could get and keep jobs, something students had expressed as their only desire upon graduation. Josh Wilson, small business owner and guidance counselor, said that the purpose of any school should be to take kids and make them life ready, especially those already struggling in a traditional school setting. These goals were what inspired the creation of the eOS or Employability Operating System used by three high schools and growing. The eOS is a web-based data collection and analysis system that was developed with the assistance of teachers so it would be an aid to them and not a burden. Mr. Wilson thanked Ryan McQuerry, Applications Solutions Specialist, Fayette County Public Schools for his work maintaining and improving the system from a software development perspective. Teachers record data about students every day into the eOS, such as being on time, on task, and behavior, both good and bad. The data becomes not a way to judge students, but a way for teachers to know when and how to intervene, essentially creating data-fueled mentoring on a daily basis. This wrap-around approach, as opposed to the classic referral model, is more effective because of its immediacy. The data can also be beneficial to parents and potential employers by rating how employable an individual student is, as well as how employable a school is. The result is evidence-supported efforts at helping students succeed.

Ms. Lyon said that they used this as a starting point to incorporate the essential skills monitoring into the Academies as they were developed. It has become an important tool in impressing upon students and parents how important these skills are to lifelong success. Working with business partners has helped to further refine the system and customize it for each of the high schools in the Fayette County Public Schools system. Donte' Tichenor, Sr., Behavior Coach, The Learning Center, said the application is one that teachers can use at their desks, but also on their phones during breaks between classes. Each student receives an employability average and there are incentives to reach higher average levels, which further translates into job opportunities with community partners. Students have personal log-in access to view their status and track their own progress. This dramatically increases student buy-in to the program and encourages more immediate correction of negative behaviors. Mr. Salyers said the dashboard is available on all teacher desktops as a result of teacher feedback. Additionally, any teacher can step in to address an issue, regardless of which teacher noted a problem, creating a network of support for students and instantaneous feedback for students and staff.

In response to a question from Senator Thomas, Mr. Wilson said that students at the Learning Center come to the school lacking in many social skills, lacking motivation, and frequently with mood or anxiety disorders. These emotional deficits make it difficult for them to engage at school and result in discipline and truancy problems. The first element the Learning Center addresses is the truancy problem through intentional intervention and daily mentoring. Over time these also help remediate other behavior problems and help students address all their needs. Responding to a follow-up question, Ms. Lyon answered that the most critical element for Fayette County Public Schools to continue its success with the academies is business engagement. Restructuring the high schools into academies has made them more business friendly and changing these sorts of structures is not something that needs to be legislated. Identifying the values that schools should be upholding is key and finding ways to incorporate those values, and attainment of them, into the accountability system would also be something she felt would help the schools flourish.

In response to a question from Representative Scott, Mr. Salyers said that there was a parent portal, but that it is currently offline for recoding and should be relaunched in the future. There have not been any complaints from parents that their students are being monitored in this way, in fact, quite the opposite. By communicating concerns instantly with parents it has enhanced communication between school and home and has directly highlighted areas for students and parents to work on at home.

Responding to a question from Senator West, Mr. Salyers said the technology has been used by other schools, proving that it is customizable and replicable. The usage and support of the program vary by school however. For a school to begin using it, he strongly recommends that they have an in-house technology support person to handle technical bugs and continued development personalized for that schools' needs. The collaboration has been an excellent part of sharing the technology with other schools as it has led to some unique innovations, and currently the software is not proprietary to Fayette County Schools.

Senator Kerr said she was proud to represent such excellent educators who did not look to solve problems through the purchase of expensive curriculums, but rather used creativity to solve their own problems. And the ability for students to take ownership of their own behavior and progress with the tap of a button is inspired.

Mr. Salyers agreed, sharing a story of a student who had had a multitude of behavior issues prior to coming to the Learning Center, who after viewing his data on eOS asked for specific guidance on how to improve and now has no behavioral referrals.

There were no further questions and no other business. Chairman Carney announced that the next meeting of the committee would be Monday, November 13, 2017, at 1:00 p.m. in Room 154 of the Capitol Annex. The meeting was adjourned at 3:30 p.m.

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

Minutes of the 5th Meeting of the 2017 Interim

October 12, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, October 12, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Tim Moore, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Tim Moore, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, C.B. Embry Jr., Denise Harper Angel, Stan Humphries, Dennis Parrett, Mike Wilson, and Max Wise; Representatives Robert Benvenuti III, Tom Burch, Will Coursey, Jeffery Donohue, Myron Dossett, Jim DuPlessis, Chris Fugate, Jeff Greer, Chris Harris, Dan Johnson, DJ Johnson, Donna Mayfield, Ruth Ann Palumbo, Brandon Reed, Rob Rothenburger, and Walker Thomas.

Guests: Richard W. Sanders, Commissioner, Kentucky State Police, Van Ingram, Executive Director, Kentucky Office of Drug Control Policy Staff; Ed Schemelya, Director, National Marijuana Initiative; Tony Coder, Director, State and Local Affairs, Smart Approaches to Marijuana; Lewis Priddy; Alex Payne, Deputy Commissioner Kentucky State Police; Mark Filburn, Commissioner, Department of Criminal Justice Training; Scott Thalman, Students for Concealed Carry, University of Kentucky; Ilya Chernyavskiy, Students for Concealed Carry, University of Louisville; Deborah Doyle, Shelly Steiner, Pathways RPC; Dianna McFarling, River Valley Behavioral Health; Masona Castleberry, Dee Snyder, Sylvia Burns, Sue Chmilewski, Nancy Birdwhistell, Amanda Clark, Betty McTymear, Sharon Mitchell, LaVonne Fingerson, Moms Demand Action for Gun Sense; Jaime Montalvo, Aaron Wilson, KY4MM; Carol Hurn, Candace Curtis, Amy Stalker, Kiven Nethery, Eric Crawford, Sally O'Boyle, Michelle Krueger, Julie Cantrell, James McKee, Jon Bontfield; Jason Warf, Alliance for the Adoption of Innovations in Medicine; and Ret. Sgt. Brent Goss.

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

Minutes

Senator Parrett moved to adopt the September 14, 2017, meeting minutes. Representative DuPlessis seconded the motion. The minutes were adopted.

Pledge of Allegiance

Chairman Tim Moore led the Pledge of Allegiance.

Distinguished Veteran

Staff Sergeant Michael Tester, Kentucky National Guard, was the recipient of the Kentucky Medal of Valor for actions taken when he witnessed a devastating crash near his home that resulted in a fatality, and where other fatalities could have resulted without his actions.

Marijuana and Public Safety

Ed Shemelya, Director, National Marijuana Initiative, discussed how today's recreational marijuana has evolved since 2012, when Colorado first legalized marijuana. Colorado is the only state to have enough data over time to analyze. The peer reviewed studies being used to justify legalizing marijuana are based on lower levels of THC in marijuana than those currently being cultivated and sold. Scientific studies have not caught up to the current botany of the plants.

The main issue that legislators should consider as they make policy decisions is whether legalizing marijuana creates additional quality of life issues including arrests, fatalities, and hospitalizations versus tax revenue and how generated revenue is being applied to other public policy concerns. In Colorado, driving under the influence of drugs (DUID) fatalities are up 101 percent even though overall deaths have decreased. Hospitalizations and drug violations due to marijuana usage have increased.

On the revenue side, Colorado reported that 2016's taxes from the sale of marijuana comprised one-half of one percent of its general fund revenue. All revenue generated from marijuana sales has been spent on regulating the industry and harm reduction, based on the Substance Abuse and Mental Health Services Administration survey results.

Van Ingram, Executive Director, Kentucky Office of Drug Control Policy, discussed tobacco industry testimony in Congress years ago indicating that tobacco was not harmful to health. He equated that message to what the pro-decriminalization of marijuana contingencies now claim about using marijuana. Ten to fifteen percent of marijuana users will develop an addiction and stop acting as functioning members of society. He said that increasing the availability of another addictive substance not good public policy.

Tony Coder, Director, State and Local Affairs, Smart Approaches to Marijuana, explained his organization's goal to bridge the gap in the dichotomy between legalization of marijuana use and incarceration for marijuana use. The organization focuses on the safety of the state's economy and workplaces with regard to marijuana usage, and in doing so, he speaks to numerous chambers of commerce.

Marijuana is a federally listed Schedule I drug, but 29 states and D.C. have legalized the use of medical marijuana in some form. This sets up several potential conflicts, including the effect of state legalized medical marijuana usage in conjunction with ensuring the safety in transportation, commerce, and workplaces. An employer can get rid of employees because of marijuana usage, but in states where medical marijuana or marijuana usage has been legalized, industries and labor are having trouble finding workers who can pass drug tests. The conflicts in laws also create the possibility of lawsuits for businesses.

Legal decisions around the country have varied outcomes. The Colorado Supreme Court has held that federal laws preempt state laws. New England states claim that the Americans with Disabilities Act covers the use of marijuana for medical reasons. It is still an open question as different federal administrations and agencies have changed their positions over the years, even in the midst of prosecuting cases or submitting amicus briefs in various legal challenges around the country.

The costs of legalization also show up in the increased number of arrests and the racial disparity of those arrests in states where marijuana usage has been legalized. Businesses selling marijuana can be found predominantly in poorer and minority communities.

Richard W. Sanders, Commissioner, Kentucky State Police, said that the argument that legalizing marijuana would save law enforcement and allow officers to focus on bigger issues by eliminating the black market is a myth. He stated that legalizing marijuana increases black market sales. The public policy debate needs to consider both the benefits as well as the risks. Nationwide, 88,000 people die due to alcohol use every year. More people die of tobacco use per year, and even more die of opioid use yearly. Increased marijuana use will lead to more deaths.

In response to a question from Representative Benvenuti, Mr. Coder explained that the difference between marijuana and medical marijuana in stores is simply a red line in the middle of the store that has medical marijuana on one side and marijuana on the other. Mr. Coder said that his organization researched the difference and found that there was no difference; rather, the two kinds of marijuana were simply labeled differently.

In response to a question from Representative Benvenuti, Mr. Coder stated that they do not have a specific dosage for medical marijuana or how much or how often it should be used. More research needs to be done.

School and Campus Safety

Lewis Priddy, a retired principal, testified that everyone is aware that there have been lots of changes in schools over the years in response to school shootings. Kentucky itself experienced an early one in Paducah, which occurred almost twenty years ago. The challenge is to maintain a safe and secure environment to foster learning while also being ready to diffuse any problems.

When Mr. Priddy was a principal at Magnolia Elementary in LaRue County, there were times when it would take 15 to 25 minutes for police to arrive at the school because of its geographic location on the edge of the county. He wished he had personal protection to help keep the school safe and be able to react effectively. His school did not have secure doors or buzzers at the entrance to restrict outsiders from entering the facility. Because of firearms restrictions, he could not even keep a gun in his car to retrieve in an emergency, and he felt restricted in his burden to care for students.

Alex Payne Deputy Commissioner, KSP, explained that he and Mark Filburn, Commissioner, Department of Criminal Justice, have spent a great deal of time studying school shootings and coming up with recommendations to prevent them. Over the years they have come to agree on three things that schools should have: (1) an early warning system to enable prevention through detection; (2) controlled access to a school; and (3) school resource officers in schools to handle dangerous situations. These things are particularly important at elementary schools where young children do not yet know how to make safety decisions quickly. College students immediately know ways to protect themselves when there is a threat, but six-year olds do not. Schools that take actions to implement these procedures are in a much better position to keep their students safe.

Mark Filburn explained that the topic of school safety is important and emotional for him. He and Alex Payne were integral in helping the legislature pass school safety legislation five years ago. The concern today is that most of the recommendations in that legislation are not being followed. Often the reason for this is a lack of funding. Commissioner Filburn reiterated that a layered approach is critical. For example, Sandy Hook had many of these protections, but the perpetrator was able to access the building by shooting through the glass door. The recommendations enacted five years ago were a starting point. Administrators, educators, and law enforcement must continually consider additional measures.

Scott Thalman, Students for Concealed Carry, University of Kentucky, and Ilya Chernyavskiy, Students for Concealed Carry, University of Louisville, expressed their concerns for safety on and off the university campuses. Scott Thalman stated that more than 200 public universities allow and have a great deal of data and experience with allowing concealed carry on college campuses. The data indicate that there has not been one violent incident by a student who has a concealed carry license on those campuses. He believes that concealed carry offers the best tool for students to defend themselves if an incident occurs on campus, but more importantly, it allows them to defend themselves as they travel onto and off of campus. Mr. Thalman promised to provide members with a map showing the high number of crimes that take place immediately around UK and UofL.

Ilya Chernyavskiy discussed how prohibiting concealed carry on campus put students at greater risk of being victims of crimes just off campus. The 2012 *Mitchell v. UK* decision has helped by confirming that students were allowed to keep their weapons secured in their cars, but that decision does not protect those who walk and bike to campus or those who utilize public transportation.

In response to a question from Representative Duplessis, Mr. Payne emphasized that the vast majority of teachers want to teach and not have to police the schools and would prefer to have a School Resource Officer. Mark Filburn added that elementary school students are the most important because they cannot run, hide, and protect themselves. He stated that people will pay to protect their children.

Other Business

A committee resolution was presented to the committee honoring Brigadier General Steven P. Bullard upon his military retirement. A motion was made by Co-Chair Representative Moore and seconded by Co-Chair Senator Robinson to adopt the resolution. The resolution was adopted. Representative Moore will present the resolution to General Bullard at his retirement ceremony on October 22nd.

A letter from committee members to VA and FDA encouraging continued scientific study of potential medical uses of the chemical components derived from cannabis for safe, regulated treatment of various medical conditions will be drafted by Representative Moore with the assistance of Representative Benvenuti. All members will see a copy of the letter before it is sent. Senator Embry moved to adopt the letter, which was seconded by Representative Fugate and adopted by a voice vote.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 4th Meeting of the 2017 Interim

October 24, 2017

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 24, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Patrick O'Connor, Deputy Commissioner of Policy, Kentucky Department of Insurance; Ballard Cassady, President and Chief Executive Officer and John Cooper, Governmental Affairs Consultant, Kentucky Bankers Association.

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

Approval of Minutes

A motion by Representative Lee and second by Senator Girdler to approve the minutes of the September 26, 2017, meeting carried by voice vote.

Department of Insurance Administrative Regulations

The committee reviewed administrative regulations 806 KAR 5:031, 806 KAR 7:011, 806 KAR 9:051, 806 KAR 17:575, and 806 KAR 24:022. Patrick O'Connor, Deputy Commissioner of Policy, Kentucky Department of Insurance was available for questions. Chairman Buford asked for clarification on 806 KAR 7:011. Mr. O'Connor said the department would like to rely on statutes that address restricting insurers' ability to either issue a security or guarantee for an officer or director. The department will no longer prohibit the investment in indebtedness in a spouse or relative by blood or marriage who is living in the same household but will rely on fiduciary duty doctrines to determine whether those transactions are prohibited, allowing insurance companies to decide whether it is a worthwhile transaction.

Issues Related to the Kentucky Banking Industry

Ballard Cassady, President and CEO, and John Cooper, Kentucky Bankers Association, spoke on the status of Kentucky's independent banking industry. Mr. Cassady explained that the primary focus of state community banks is to serve Kentuckians and contribute to the overall success of the Commonwealth. He stressed the need for tax reform noting that the proportionate tax being paid by community banks has increased even though their numbers are dwindling. Regulatory and compliance costs as a result of the Dodd-Frank Act and the burden of accounting standards designed for international banks being applied to all United States institutions have reduced profit margins. The tax structure for Kentucky's independent banks is less advantageous than that of nearly every other state. The banking industry pays at least 60 percent more in taxes than any other corporation in the Commonwealth. Mr. Cassady said the increased and inequitable tax burden, along with federal regulatory and capital reserve burdens placed on community banks, have contributed to the stress seen in Kentucky's independent banking industry. Despite these trends, community banks continue to be the strongest lenders in small business holding 43 percent of all small loans to businesses and farms in the United States. Mr. Cassady asked the committee to consider these matters in the upcoming legislative session.

There being no further business to come before the committee, the meeting was adjourned at 10:25 AM.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES

Minutes of the Fifth Meeting of the 2017 Interim

October 11, 2017

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, October 11, 2017, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 10:03 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Tom Buford, Danny Carroll, Julian M. Carroll, Stephen Meredith, and Reginald Thomas; Representatives Danny Bentley, Robert Benvenuti III, George Brown Jr, Mary Lou Marzian, Chad McCoy, Russ A. Meyer, Kimberly Poore Moser, Steve Riley, and Russell Webber.

Guests: Kelly Gunning, Director of Advocacy and Public Affairs, NAMI Lexington; Michael Gray, Advocacy Coordinator, NAMI Kentucky; Stephanie Pearce Burke, Judge, District Court, Jefferson County; Lara MacGregor, Hope Scarves; Darrin McCauley, Twisted Pink Board Member, Old National Bank; Julie W. McKee, DMD, Dental Program Administrator, Department for Public Health, Cabinet for Health and Family Services; Tara Grieshop-Goodwin, Chief Policy Officer, Kentucky Youth Advocates; Ron Hatfield, Cellarian Health; Jan Bright, Henrietta Bada, Lindsey Meadors, and Bill Bishop, Department for Public Health, Cabinet for Health and Family Services; Mike Bishop, Health Kentucky; Dr. Jerry Caudill, State Director, Avesis, Incorporated; Mary Maupin, Anthem Kentucky Medicaid; Amanda Ferrill and Peg Patton, Mortenson Dental; Carol Hura; Sarah S. Nicholson, Kentucky Hospital Association; Steve Davis, Acting Inspector General, Cabinet for Health and Family Services; Wendy Morris and Rita Ruggles, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Eric Clark, Chief of Staff, Cabinet for Health and Family Services; Stephanie Brammer-Barnes, Cabinet for Health and Family Services; and Jennifer Wilson, General Counsel, Cabinet for Health and Family Services.

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

Minutes

A motion to approve the minutes of the September 20, 2017 meeting was made by Representative Marzian, seconded by Senator Alvarado, and approved by voice vote.

An Update on Tim's Law (2017 Senate Bill 91)

Senator Adams stated that 2017 Senate Bill 91, Tim's Law, addresses the problem of individuals with the most serious mental illness revolving in and out of state hospitals, the court system, jails, and out of homelessness. The approach is called Assisted Outpatient Treatment (AOT) and it creates a mechanism in civil court to require and monitor individuals who are eligible for court-ordered outpatient mental health treatment. The objective of SB 91 is for individuals with serious mental illness to receive treatment to improve their lives in recovery and to prevent further court, hospital, and law enforcement involvement.

Kelly Gunning, Director of Advocacy and Public Policy, NAMI Lexington, stated that AOT has been successful in other 44 states. An individual is four times less likely to be involved in violent crimes if an AOT plan is in place. People with untreated illness commit crimes. There is a 44 percent reduction in harmful behaviors such as homelessness, substance use disorder, and mental illness. The number one reason AOT is needed is that it addresses the number one problem with serious mental illness which is the problem of recidivism. The number one reason for recidivism is nonadherence to prescribed treatment. Patients with mental illness are not aware that they are ill and, therefore, do not think they need to take medication. AOT is not about taking away an individual's rights but to help the individual to engage in community resources that will keep them out of the revolving door of hospitals, jails, or homelessness. There needs to be a mechanism that monitors someone to make sure they continue to be engaged in the system that will cause accountability and compliance. There is a 90 percent failure rate of individuals keeping first appointments after being released from a facility. AOT saves allot of money. North Carolina reported a 40 percent cost savings in the treatment of individuals who were identified as high utilizers. Ohio had a 40 percent reduction rate in spending on individuals involved in the recidivism cycle. Twenty percent of all Medicaid readmissions involved serious mental illness. In one year, approximately 75,000 individuals on Medicaid are readmitted to a hospital within 30 days. The money saved far outweighs the cost to implement AOT programs. States that implemented AOT did not implement the AOT statewide at first but used funding streams from county, state, and local entities. In counties where there were already existing drug courts and mental health courts, it was a natural extension of these courts. Hamilton, Ohio pays a probate court navigator approximately $50,000 a year to oversee AOT treatment individuals from state and local funds.

Michael Gray, Advocacy Coordinator and Legislative Agent, NAMI Kentucky, stated that if individuals follow treatment plans, they are able to lead normal productive lives. AOT courts can help people who suffer with mental illness by helping them in the right direction.

Stephanie Pearce Burke, Judge, District Court and Drug Court, Jefferson County, stated that the

Kentucky District Court Judges Association was in opposition to SB 91, but she has seen that AOT can be easily implemented. It needs to be started as a pilot project to learn how to implement it appropriately statewide. The model that will work best for Kentucky is to operate it within the confines of existing mental health courts, regular drug courts, or veterans' treatment courts. SB 91 is an unfunded mandate, so there is no ability to create new courts to hear cases of individuals who are still in hospitals. Jefferson County has a designated judge who hears all mental inquest warrants in hospitals for patients who have been involuntarily hospitalized or who are awaiting a hearing on a petition under a 72-hour hold. Approximately 85 percent of mental inquest hearings are held in hospitals before an individual is released. AOT is only needed for a small number of individuals who have been involved in the court system continuously and are not compliant with the treatment plan after being released from a facility. There needs to be a good coordinator who works with the individual, treatment team members, and the judge to conduct the mental inquest hearings. Seeing a judge each week is the key to the success of AOT, because the individual and treatment provider are accountable for steps taken or not taken to adhere to the treatment plan. Judges listen to individuals, and it helps the individual to remain on the treatment plan. The Administrative Office of the Courts (AOC) created the petition, application, and transfer order forms the day SB 91 went into effect. Circuit Court clerks could designate someone in its office to temporarily serve as the coordinator until funds are allocated for a full-time coordinator.

Ms. Gunning stated that individuals who do not adhere to the treatment plan do not stay off the radar for long.

In response to questions by Representative McCoy, Judge Burke stated the requirement in KRS 202A.0811(6)(b) says to set a date for a hearing within six (6) days from the date of the examination by a qualified mental health professional to determine whether the respondent meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815, excluding weekends and holidays, to determine if the respondent should be court-ordered to assisted outpatient treatment. The statute needs to clarify when to set the hearing if the examination was five days prior to the petition. Hearings in the hospitals are not open to the public. There are no other counties besides Jefferson County that send judges to hospitals to conduct hearings. Ms. Gunning stated that in Fayette County there is a judge that comes to the hospital. Videoconferencing could be used to see patients in the hospital, but it is more effective when an individual has to appear in the courtroom in front of the judge. Ms. Gunning stated that allot of individuals are paranoid of the video screen.

In response to a question by Representative Wuchner, Judge Burke stated that she does wear her robe for a hearing at the hospital to help have the same effect as if someone was appearing before her in the courtroom.

In response to questions by Representative Moser, Judge Burke stated that the court is connected to medical team is through the Assistant County Attorney who is on the mental inquest warrant (MIW) docket and through the clerk who will call the hospital and obtain information and schedule the hearing. Ms. Gunning stated that in Fayette County there is a coordinator who is in contact with the medical team for the mental health court. Judge Burke stated that a person cannot be held in contempt if they fail to appear in court. A summons can be issued for someone in the sheriff's office to transport a person to court, but the sheriff's office does not like to take someone into custody if they are not under arrest. Ms. Gunning stated that in Ohio, someone from the treatment team is sent to the individual who is not compliant.

In response to a question by Representative Wuchner, Judge Burke stated that an individual can have a support person with them throughout the process. It could be very beneficial to have a program structured like CASA that would provide assistance to individuals. Ms. Gunning stated that certified peer specialists are used in Fayette County.

Metastatic Breast Cancer

Lara MacGregor, Hope Scarves, stated that October is breast cancer awareness month. No one dies of cancer found in the breast, because it is treatable and survivable at this point. Metastatic breast cancer is a stage 4 cancer and is terminal. Approximately 30 percent of people diagnosed with early stage breast cancer will have it become metastatic with a life expectancy of two to three years. There will be 111 individuals who die from metastatic breast cancer daily. There are no records of how many individuals who have metastatic breast cancer, because someone is only counted for the original diagnosis. While it is important to celebrate individuals who are in remission, it is just as important to raise awareness of individuals who are dying of cancer. There needs to be more research conducted to understand why and how the cancer metastasizes. Questions need to be raised about where research dollars are being spent. Breast cancer is painful and very terrifying for not only the patient but for family and friends. It can tear families apart. The same amount of individuals die of breast cancer today that did 30 years ago.

Darrin McCauley, Old National Bank, and Twisted Pink Board Member, stated that his wife, Janice, was diagnosed with stage 3 breast cancer that metastasized in her lower spine and bones. She took extra precautions by staying healthy because there was a family history of breast cancer. More research needs to be done on metastatic breast cancer.

Senator Adams stated that there needs to be a review of where the money donated for breast cancer is spent.

In response to a question by Senator Thomas, Mr. McCauley stated that less than ten percent of breast cancer funds goes to metastatic breast cancer research. Two and a half years ago the General Assembly appropriated $132.5 million to the University of Kentucky to build a health disparities clinic because there are significant health disparities in Kentucky. Mr. McCauley stated less than ten percent of money donated to breast cancer goes to metastatic research. Ms. MacGregor stated that the organization she founded, Hope Scarves, has raised $150,000 for metastatic breast cancer research. Medical hospitals in Kentucky are interested in conducting clinical trials that are accessible to more people.

In response to questions by Representative Marzian, Ms. MacGregor stated that National Institute of Health budget appears to fund a large amount of breast cancer research, but a small percent is spent on metastatic breast cancer research. Thirty percent of funds are needed to research metastatic breast cancer and treatments. There needs to be a better understanding between the difference of early breast cancer and metastatic breast cancer. Once it goes beyond the breast it is hard, if not impossible, to cure.

Senator Alvarado stated that someone's odds of dying increase when they have metastatic cancer. In 1975, breast cancer survival rates were 65 percent, in 2010 it was 83 percent, currently is 89 percent. Allot of focus has been on early detection. One in eight women are diagnosed with breast cancer. The medical community is becoming aware that individuals need to stay on medications longer to help the cancer from reoccurring.

In response to a statement by Representative Wuchner, Ms. MacGregor stated that there needs to be an awareness of all preventive access to care.

Representative George Brown stated that individuals need good health insurance that will help individuals receive the best treatment and care.

Update on the State Dental Health Plan

Tara Grieshop-Goodwin, Chief Policy Officer, Kentucky Youth Advocates (KYA), stated that approximately a year ago the KYA partnered with Delta Dental of Kentucky to conduct an updated survey of children's oral health in Kentucky. A dentist and assistant performed a random sample of screenings statewide and found there was a higher percentage of third and sixth graders that needed dental care. Two out of five third and sixth graders had untreated cavities and over half of third and sixth graders did not have sealants. One recommendation of the report was to develop comprehensive goals and objectives for an updated state oral health plan. The Cabinet for Health and Families Services has begun updating the state oral health plan.

Julie Watts McKee, DMD, Dental Program Administrator, Department for Public Health, Cabinet for Health and Family Services, the goals of the 2006 Statewide Oral health Strategic Plan, Healthy Kentucky Smiles: A Lifetime of Oral Health, were to increase the number of dental professionals to underserved areas to assure access to care, to increase and sustain funding for oral health programs, to recognize stakeholder involvement to expand awareness and education, and that oral health should be a full component of coordinated, integrated, and comprehensive services. There is still a problem with childhood dental decay. There is a disproportionate percentage of dentists statewide. Insurance coverage for dental services is always changing. Approximately 50 percent of Kentucky's children have KCHIP, and a huge problem is that there are still counties that do not have dentists who accept Medicaid. The cost of a dental education has skyrocketed leaving some dentists with over a $237,000 college debt. The updated oral health plan is undergoing final edits and revisions and should be released on November 1, 2017. There is a need to educate everyone on the dental needs of the population. Oral health literacy is needed for individuals to make good decisions about oral health. Children need to be taught good oral health habits and break bad cycles. There is also a need to have more oral health education in the medical and nursing fields. Good oral health reduces some morbidity of chronic diseases.

Some key points to prevention are to expand the Department for Public Health's Dental Hygiene Program, to promote the use and training of silver diamine fluoride, to create consistent oral health education in health departments, and to review school pre-entry screening requirements. Good data and metrics drive good policy. Goals can only be met with sustainable funding. Everyone will benefit from the oral health plan.

Representative Riley stated that it is difficult if a county only has one dentist available. Dr. McKee stated that children in pain, especially dental pain, cannot learn.

Senator Alvarado stated that there has been a dramatic reduction in cavities rates in children in Clark County because of dental varnishings. Dr. McKee stated that dental varnish is different from silver diamine fluoride that arrests current decay and eliminates pain. Medicaid covers dental varnish for children up to the age of 19 years.

Consideration of Referred Administrative Regulations

The following administrative regulations were referred to the committee for consideration: **902 KAR 20:360 & E** – establishes licensure requirements, standards, and procedures for abortion facilities that comply with KRS 311.727 and adds new transport agreement requirements; **921 KAR 3:025** – sets forth the technical eligibility requirements used by the cabinet in the administration of SNAP; and **921 KAR 3:042** – establishes technical eligibility requirements used by the cabinet in the administration of the SNAP Employment and Training Program (E&T).

In response to questions by Representative Marzian about 902 KAR 20:360 & E, Steve Davis, Acting Inspector General, Office of Inspector General, Cabinet for Health and Family Services, stated that it is important to main the status quo until litigation and final ruling is complete. The ultrasound legislation has been on hold until the federal court rules in the case.

Jennifer Wilson, General Counsel, Cabinet for Health and Family Services, stated that 902 KAR 20:360 & E relates to transfer and transportation agreements. It references the ultrasound portion, but the primary changes are made in Section 10. Mr. Davis stated that the administrative regulation is a cross reference to a statute with the ultrasound provision. Mr. Davis stated that EMS does not have to have a floor plan for every outpatient service, but the administrative regulation is a safety measure that is meant to help provide advance notice to providers who seek to address emergencies and be able to get to the patient promptly. There is a certificate of need (CON) law that applies to allot of categories of facilities including ambulatory surgery centers. When the law was adopted in 1998, abortion facilities were regulated as ambulatory surgery centers. The cabinet is implementing the provisions of KRS 216B.0435 enacted by the General Assembly.

A motion to accept the referred administrative regulations was made by Representative Benvenuti, seconded by Senator Alvarado, and accepted by voice vote. Representatives Marzian and George Brown requested to be recorded as voting against 902 KAR 20:360 & E.

Adjournment

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

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 5th Meeting of the 2017 Interim

October 13, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, October 13, 2017, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Joe Bowen, Tom Buford, Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Ray S. Jones II, Christian McDaniel, Dan "Malano" Seum, and Damon Thayer; Representatives Al Gentry, Dennis Keene, Chad McCoy, Jerry T. Miller, C. Wesley Morgan, Kimberly Poore Moser, David Osborne, Ruth Ann Palumbo, Phillip Pratt, Arnold Simpson, Diane St. Onge, Walker Thomas, and Susan Westrom.

Guests: Representative Jason Nemes; Adam Watson, President, Daniel "DH" Harrison, Vice President, Kentucky Guild of Brewers; Jennifer Doering, General Manager, Chas Seligman Distributing; Donald Cole, Director, Kentucky League on Alcohol and Gambling Problems; Karen Lentz, Kentucky Association of Beverage Retailers; Jason Baird, Kentucky Malt Beverage Council; Dan Meyer, Wine and Spirits Wholesalers of Kentucky; Drew Chambers, CPA, Mountjoy Chilton Medley (MCM); Christy Trout, Commissioner, Trina Summers, Distilled Spirits Administrator, Carol Beth Martin, Malt Beverage Administrator, Department of Alcoholic Beverage Control.

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

Minutes

The minutes from the September 8, 2017 meeting were approved without objection.

Senator Schickel asked for a moment of silence to commemorate Senator Dick Roeding who recently passed away. Several other Senator also commented on Senator Roeding and his exemplary service to the Commonwealth.

Kentucky Guild of Brewers 2018 Legislative Agenda

Adam Watson, President, Kentucky Guild of Brewers, Co-Founder of Against the Grain in Louisville, said that Kentucky Craft Brewers are growing faster than ever. However, Kentucky is still behind neighboring states. The brewers association's definition of "small" is six million barrels, or the federal tax and trade bureau line of two million. The Kentucky definition is 50,000 barrels. Two new breweries have opened recently. One of them, Third Turn in Oldham County, is already expanding to accommodate larger than expected traffic. Mile Wide, in Louisville, won a medal at this year's Great American Beer Festival and has invested in a new canning line that allows them to add new products. This year the guild is partnering with the Kentucky Department of Agriculture, uniting craft brewers with Kentucky Proud farmers to create three unique flavors.

The Kentucky Guild of Brewers supports open competition and market access. They believe in responsible consumption and using their success to support their local communities and growing number of Kentucky employees. Neighboring states have higher production limits, modernized tax codes, growth incentive programs, greater contractual freedom, and fewer restrictions to market access. It is the guild's belief that there is discrimination between small farm wineries and the craft brewers. The brewers do not self-distribute. Craft beer goes through the three-tier system. They are allowed to self-sell directly to customers who visit their facilities. They would like to remove the limit of 288 ounces per day that a taproom can sell. This creates an unnecessary barrier to commerce. If a customer walks into the Country Boy taproom to purchase a case of Cougar Bait, they are not allowed to buy a glass of the newest IPA while there. At Against The Grain's taproom, because the cans are 16 ounces, cans have to be removed from a case before they can be sold.

Kentucky breweries pay federal and state excise tax, state wholesale tax, and state and local taxes. The guild is asking the legislature to make a change so that the breweries can send their wholesale tax payments directly to the Department of Revenue (DOR). Wholesale taxes are paid to distributors, who keep one percent and then forward the forms and payments to DOR. New brewers are required to sign a contract with a distributor, even though they are not distributing, so that they can pay their taxes. Essentially, distributors are acting as tax collectors while the state is giving up one percent of its beer wholesale tax revenue. All other taxes are submitted by the brewers directly to DOR.

Senator Schickel commented that the way the industry has transformed the urban core is amazing.

Senator Harper-Angel commented that she would like to see craft beer in Kentucky State Parks.

In response to a question from Representative Morgan, Mr. Watson said the brewers fill out tax forms and write checks to their distributor for the wholesale tax. The distributor keeps one percent of that money and forwards the rest on to the DOR.

Senator Higdon asked for clarification regarding a distributor collecting one percent, which seems high to collect a tax.

Direct Shipment of Alcohol – A Response to the Previous Proposal

Jennifer Doering, owner of Chas Seligman Distributing, told members that she and her family employ 100 people, and operate in 14 counties with 1200 accounts and 1400 different Stock Keeping Units (SKUs). While the system for the distribution and sale of alcoholic beverages is complex it provides a system of checks and balances. It fosters the growth of Kentucky's robust alcoholic beverage industry, including the craft beer and wine business. Distributors help all brands into the market place, facilitating visibility and marketing. Distributors also collect almost $150 million in taxes from alcohol sales each year. Their combined operations provide million in economic benefits to communities throughout the state purchasing and maintaining facilities, trucks, and other equipment.

Distributors ensure products on the shelves are safe and fresh. Should there be a product recall they can remove any product quickly. Distributors understand that the market place is evolving and are adapting to meet consumer demand. They support the desire of consumers to receive products in the manner of their choosing, whether that is through a licensed retailer or a verified delivery method, as long as it complies with the existing system of checks and balances.

Distributors feel that direct shipment is not a responsible approach. Changing to direct shipment will turn the entire state wet, make alcoholic beverages more easily accessible to minors, and cede Kentucky's authority to control the sale and distribution of alcoholic beverages within the state. Common carriers will be put in charge of distributing alcohol at any time of any day of the week.

Allowing direct shipment of alcohol, most of which will occur from out-of-state businesses, creates a loophole in the current tax scheme as it relates to alcoholic beverages. Currently, Kentucky has the fifth highest tax on alcohol products, and most of the taxes collected and paid are through a distributor. Direct shipment by-passes the distributor level, making it difficult for the DOR to collect taxes. Distributors feel that the costs of the proposal to the industry outweigh its unproven benefits. They want the system of checks and balances preserved. This ensures that consumers have access to products they want, and producers compete on a level playing field. Additionally, it ensures the timely collection of taxes and protects our communities.

Drew Chambers, CPA Partner with Mountjoy Chilton Medley, said the Kentucky Beer Wholesalers Association had hired the firm to assist in describing the current tax structure for alcohol sales in Kentucky. The current system provides critical checks and balances that protect the industry and the safety of the consumers. They extend to the tax collection process, allowing for an efficient and reliable system to collect a significant amount of annual tax revenue for the state.

Currently, wholesalers and distributors remit both a wholesale sales tax based on sales dollars, and a wholesale excise tax based on product volume sold. The wholesale sales tax ranges from 10.25 percent for beer and wine to 11 percent for distilled spirits. This tax does not include the retail level sales tax collected by retailers, or local taxes imposed in some areas. The excise tax is based on volume, generally measured in gallons, and the rate varies based on the type of beverage. Administratively, the wholesale sales tax and excise tax are reported on a single tax form that is filed monthly. Separate forms do exist for the wholesalers or distributors of beer, wine and distilled spirits. The forms provide information related to the product received during the month, as well as the beginning and ending inventory levels. This data is used to compute the volume subject to the excise tax and the gross receipts from sales in order to compute the wholesale level sales tax. A separate form is used for wholesalers to report the individual product shipments received from breweries or distilleries. In addition to the forms completed by the wholesalers, producers and transporters also report sales in Kentucky. Brewers provide a monthly report of sales by specified distributor and date. This is a form of corroboration of the information filed by the wholesalers. This enhances the state's ability to monitor and audit the forms and collections. Kentucky's collection from beer wholesalers consistently exceeds $60 million. The industry as a whole exceeded $147 million in tax collection in 2017.

Information from the Federal Bureau of Labor Statistics confirms that Kentucky wholesalers employ thousands of people. In the first quarter of 2017, the census data reported malt beverage wholesalers employed 1,302 people as of March.

Annualizing this data suggests payroll in excess of $70 million. This data relates to direct employment only. As pointed out, these small businesses contribute millions to Kentucky's economy through employment opportunities and the operation of facilities within the state. It is clear that the current system provides assurances that tax amounts are properly reported and collected, it is administratively efficient and beneficial to the DOR, and provides thousands of jobs in Kentucky.

Karen Lentz, Executive Director and Legislative Agent for the Kentucky Association of Beverage Retailers, representing both large and small package stores across the state said feedback from members has been broad. The biggest issues are the level playing field and tax collection. As more communities go wet there is an implementation of license fees, or a gross receipts tax. Some communities collect a tax in addition to the wholesale and sales tax. Courts have already ruled that doing business in a state does not create nexus so if a Kentucky resident purchased alcohol online from another state and had it shipped, there would be no sales tax collected. The state allows distributors to withhold a portion of the sales tax collected. There is a maximum of $50 allowed to be collected per reporting period. However, out-of-state companies who voluntarily elect to submit taxes are classified as model sellers and are allowed to keep as much as 8 percent of what they ship into the state. Another concern is what other states are doing. According to FedEx only 14 states allow direct shipping into the state. Many states require a license specific to that states. There is also a concern regarding Kentucky shipping out and similar businesses shipping into the state. An NCSL study was very limited showing which states allow direct shipment.

Jason Baird, Executive Director, Kentucky Malt Beverage Council, said all members of the council also have liquor and wine wholesalers license. These small business owners have seen brands, brewers, and retailers come and go; however, many small family businesses like Seligman have been in the distribution business since the end of prohibition. Members are concerned about public safety and take that responsibility seriously. A mandate to collect wholesale, excise and retail taxes does not provide a nexus of the sale for out-of-state shipments and Kentucky is at a competitive disadvantage because of current high alcohol taxes. Members are also concerned about loss of jobs.

Donald Cole, Executive Director, Kentucky League on Alcohol and Gambling Problems said Kentucky still has many dry areas. There are places where package sales are not allowed even though there are sales by the drink in restaurants. There are wet counties that have dry precincts. How will a carrier know they are delivering to a wet area? Will the carrier be required to have a license? Is the driver required to be insured? Will the company making a delivery be required to confirm that the person receiving the delivery is over twenty-one? Will the delivery be to a retailer or to a residence? FedEx or other carriers leave a package with no signature that the package was received. This could allow a minor to order wine, watch for the delivery at a neighbor's house who is not home, and go pick it up. Cheap products encourage more drinkers. Cities are looking for more revenue, and direct shipment of alcohol will siphon more money out of Kentucky's economy. Kentucky wineries are required to follow certain laws to regulate the wine industry. Opening up sales will pit breweries against wineries. All alcohol entities should operate by the same laws to level the playing field.

Dan Meyer, Executive Director and General Counsel, Wine and Spirits Wholesalers of Kentucky, said the current system provides safeguards for consumers. There have been problems with counterfeit products in other countries. Tainted products poisoned vacationers in a resort in Mexico. Tainted products are common in Europe as well. The United States does not have that problem. Alcohol is highly regulated for a good reason. The current market provides the consumer with broad choices. Responsibility, accountability, and public safety concerns should outweigh consumer convenience.

Representative Morgan opined that the real argument is competition. However, he stated he does not support direct shipments into Kentucky. The real solution is to allow competitive distributors so that any licensed wholesaler can sell any brand they would like to sell. Another problem is that 65 percent of sales are by credit cards, which charge a percentage for card use.

Representative Keene told the committee that in considering this change care should be taken so as to avoid unintended consequences. The number one responsibility the legislature has is public protection.

In response to a question from Senator McDaniel, Mr. Meyer stated that there is no cap on collection of the wholesale tax. The DOR agreed that the wholesales could keep 1 percent of the total amount of the wholesale tax collected. Karen Lentz added that she was referring to KRS 139.570 relating to retailers. There is a structure that is capped at $50, for sales tax, per month. Senator McDaniel warned that during the upcoming session, groups who come with misleading or inaccurate information will be cut out of any tax reform meetings.

In response to a question from Representative St. Onge, Ms. Doering said regarding wholesaler loss of revenue, there is not a study because there is no range or limit on direct shipment in the proposed bill. There is a major difference between getting a case of wine shipped to a home verses a brewer directly shipping to a large box store that demands direct shipping. She further stated that if there is a product that someone wants, a distributor can get that product. Adam Watson responded that the Guild is in support of direct ship.

Representative McCoy said that every day there are tourist visiting his county, in fact one group from Australia comes every year for the Bourbon Festival, and there is an obstacle for them to ship bourbon back home.

In response to a question from Representative Moffett, Karen Lentz said the national association said that they are having a hard time keeping track of direct shipping laws because every state is different, some requiring in person, some requiring limits on the amount that can be direct shipped. Some states only allow direct ship from a winery and some states allow direct ship from a retailer. Representative Moffett said an NCSL report states that in the last couple of years direct shipment has expanded.

Representative Moffett also stated that he did not believe that there was tainted alcohol being direct shipped from state to state by licensed vineyards or brewers. Mr. Meyer said the direct shipment is unregulated. Ms. Doering added that MSNBC had recently reported a 13 year old had recently answered the door on five different occasions. On three of the occasions she was not given the alcohol. However, on two occasions she was allowed to receive the alcohol, no ID required. Representative Moffett said that most verification procedures he is aware of work. He added the subject is complex and he is looking forward to working with all parties to work out a solution.

In response to a question from Representative Miller, Ms. Doering said that the down side of direct ship to a Sam's Club is that independent players in the market will suffer due to the buying power of a large retailer.

Senator Thayer cautioned the industry for talking against each other. There is a relationship between tourism and the alcohol business. A reasonable way to move forward on direct shipping is to allow an individual visiting tourist sites such as a brewery, small farm winery, or a distillery to purchase, under the limits established by the General Assembly, alcohol that they can ship to their home. This will show immediate results for our tourism business.

In response to a question from Representative Koenig, Ms. Doering said that of her 14,000 SKUs 12,000 are alcohol.

Administrative Regulation Process Revision

Representative Nemes said that his bill is known in other states as the "Right to Earn a Living" bill. It takes a close look at occupational licensing regulations. Occupational licensing requirements raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across state lines. Often policy makers do not carefully weigh the cost and benefits when making decisions to regulate a profession through licensing. Licensing, when overdone, impacts lower wage workers, minorities and veterans in a significant way in our state. In a survey, veterans said it was hard for them to translate their military service into sufficient requirements to become licensed in Kentucky. This is a problem the General Assembly needs to address. Kentucky licenses more of its workforce that any surrounding states, with more onerous obligations. SB 120 took steps to reduce licensing requirements.

This bill seeks to preserve the protection for consumers to make sure that legitimate professions are licensed and providing quality workers. There will be periodic review to recognize unnecessary licensing regulations. There will be a requirement for licensing boards to report to the Legislative Research Commission every five years. This report will explain the licensing process for that profession and document reason for change or repeal. Also, during those five years, citizens will have access to challenge particular licensing provisions. The gives the professional the opportunity to go directly to the board rather than to court. This eliminates legal fees for the state.

Representative Westrom stated that she had just received a call from a constituent who had been an EMT in the military. However, his license from the military is not recognized in the state of Kentucky.

Representative Nemes said that military spouses are also included in his bill.

Senator Bowen said that he had been in a profession where there was licensing as well as certification. He stated that in some cases certification can take the place of burdensome licensing process. For instance, ASC has certification for mechanics that is just as stringent as a licensing test or program.

In response to a question from Senator Seum, Representative Nemes said SB 120 removed the automatic removal requirement for convicted felons. However, the presumption is that yes, you will lose your professional license if convicted of a felony.

Representative Koenig said that Kentucky has been selected to be one of 11 states to participate in a study with NCSL to streamline licensing and certification regulations.

Alcoholic Beverage Control update on implementation of HB 183 from 2017 Regular Session

Trina Summers, Distilled Spirits Administrator, said HB 183 looked at the statutory requirements for all licenses. The bill removed language that was not statutorily necessary. Applications were shortened. Instructions for applying for a licenses were standardized and have been put online. Other revisions were for making language consistent on forms for private party requests, minors on premises, payment forms, and dormancy forms. These are required for licensees in their business. Also, in the interest of "red tape reduction" they eliminated unnecessary forms.

Carol Beth Martin, Malt Beverage Administrator, said administrative regulations were submitted to reflect changes from HB 183. The state ABC was granted the same discretion as local governments in terms of setting Sunday sales hours for extended hours supplemental licenses. License renewal administrative regulations were updated to reflect the change in the reduced fee for the class B rectifiers license and, applications were updated and incorporated by reference.

The signs on vehicles regulation dictates what information should be displayed on trucks. The new regulation allows for larger numbers in the license number displayed on the side of their transport vehicles. The appointment notification of local administrators was changed because it is no longer required for administrators to take out a bond. Finally, the equipment and supplies regulation has just been filed. This was necessary because HB 183 took out the language allowing producers and distributors to give away refrigerated coolers.

Christy Trout, Commissioner, Department of Alcohol Beverage Control, said ABC has held workshops across the state. They have worked with KACo in talking about alcohol related issues. The ABC also participated in the Kentucky League of Cities bi-annual summit. They are working on incorporating the ABC website into the local administrator's websites.

The change in HB 183 to allow retail drink licenses in a city of any size has changed the quota number for sale in each community. The department is working on a data base to provide information on the quota and prohibitions by community. They have assisted communities who do not want to have sales by the drink with ordinances.

Steve Humphress and his team are working on a Frequently Asked Questions database. These will be available on the ABC website.

In response to a question from Representative Miller, Ms. Trout said she was not aware of the origin of the education fund for malt beverages. She said will find the information and provide it to him at a later date.

In response to a question from Representative Morgan, Ms. Trout said that due to pending action of the board she could not comment regarding the sale or transfer of a license that must be held for three years.

Senator Thayer said there was an important announcement at the Country Boy taproom at 1:30 PM, regarding the collaboration of the Department of Agriculture and the Kentucky Guild of Brewers.

Representative Koenig reminded the members that the next meeting was November 17, which is not the usual meeting day.

There being no further business to come before the committee, the meeting was adjourned at 11:45 AM.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 5th Meeting of the 2017 Interim

October 19, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, October 19, 2017, at 11:00 AM, in Wilmore, KY at Asbury University in the Andrew S. Miller Center for Communication Arts. The meeting was a joint meeting with the Interim Joint Committee on Tourism, Small Business, and Information Technology. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Ernie Harris, Stephen Meredith, Wil Schroder, and Reginald Thomas; Representatives Lynn Bechler, McKenzie Cantrell, Daniel Elliott, Al Gentry, Dennis Horlander, Joni L. Jenkins, James Kay, Kim King, Adam Koenig, Russ A. Meyer, C. Wesley Morgan, Jason Nemes, Jason Petrie, Philip Pratt, Steve Riley, Dean Schamore, Diane St. Onge, Wilson Stone, Russell Webber, and Addia Wuchner.

Guests: Dr. Sandra Gray, President, Asbury University; Dr. Jim Owens, Dean of the School of Communication Arts and Professor of Media, Asbury University; Judge Terry Martin, Judge Executive, Hart County; Brandon Jennings, Director, Harlan County Tourism; David Cottingham, COO, Post Time Studios; Stephanie Stumbo, Executive Director, Kentucky Film Association; Deputy Secretary Regina, Kentucky Tourism, Arts and Heritage Cabinet; Jay Hall, Executive Director, Office of Film and Tourism Development, Kentucky Tourism, Arts and Heritage Cabinet; and Mary Ramer, President, Visit Lex.

LRC Staff: Carla Montgomery, Andrew Manno, and Sasche Allen

Approval of Minutes

A motion to approve the minutes of the September 12, 2017 meeting was made by Representative Adam Koenig, seconded by Representative Kim King, and approved by voice vote.

Asbury University

Dr. Sandra Gray, President of Asbury University, gave a brief overview of the university after thanking members for continuing to invest in the progress and development of the Commonwealth. Asbury University was founded in 1890 and at the time was one of few institutions that admitted women. In the early 1900s, it began offering business and commerce courses which was uncommon during that period. Presently, half of the students come from out of state, and 16 percent of those students become Kentucky residents upon graduating. Dr. Gray commented on the recent partnership with The Kentucky Film Commission which has led to the creation of a certification program that will increase the labor force in the film industry. She extended the invitation to return the university at a later time to explore other programs besides the School of Communication Arts such as the equine program, The Howard Dayton School of Business, and the School of Education.

Dr. Jim Owens, Dean of the School of Communication Arts and Professor of Media Communication, stated that the School of Communication Arts has approximately 450 students majoring in programs such as journalism, theater and cinema production, worship arts, and media communication. Students majoring in media communication comprise nearly half of the School of Communication Arts. Media communication students have the opportunity to study areas of film, television, multi-media, media performance, media management, audio, and production design. Dr. Owens added that the academic excellence of the program can be attributed to a combination of education, experience, and industry recognition of the faculty that includes production design, sitcom directing for various networks, national Emmy awards, and prestigious honors for work on the National Geographic and Smithsonian channels. In addition, Dr. Owens also discussed the long term contract that the university holds with the Broadcast Division of the International Olympic Committee to provide broadcast training to students and personnel.

Kentucky Film and Digital Media Industry Efforts and Opportunities Across the Commonwealth

Judge Terry Martin, Judge Executive of Hart County, gave a local perspective of the economic impact seen in his area from the film tax incentives that the General Assembly approved in 2015. Several different projects have been filmed in Hart County and surrounding counties including one for the Hallmark Channel called *An Uncommon Grace* that added about $500,000 to the local area economies. Judge Martin attributed producers choosing to film in his area to the beautiful scenery, the hospitality of the residents, and the level playing field that was created by the tax incentives for film production. As a result of the successful completion of projects such as *Mail Order Monster* and *Runaway Romance*, the Southern Kentucky Film Commission was created by Hart, Barren, Warren, and Edmonson Counties to assist in attracting film producers to Southern Kentucky. Judge Martin explained that although the introduction of the film industry as a new form of revenue for the Southern Kentucky region is nontraditional economic development, it has the potential to add jobs in businesses that will be needed to supply materials and services to film production teams. In an effort to continue film industry development in the Commonwealth, a new infrastructure is needed, as well as the training of Kentuckians in order to provide a skilled film industry workforce. He suggested production studio being located in Southern Kentucky, internships and co-ops being offered to high school students, and training being done throughout the Kentucky Community and Technical College System.

Brandon Pennington, Director of Harlan County Tourism, also gave a local perspective of the possibility for film to be a viable industry in the state. *Above Suspicion*, which was a $13.5 million budgeted film and the largest budgeted film to come to Kentucky since *Secretariat*, was recently filmed in Harlan County. After learning that the movie would be filmed in Harlan County, the tourism officials and the community became dedicated to ensuring they were equipped with the proper resources, tools, and skills to be a film host. Mr. Pennington stated that the positive economic impact of being a film host can benefit local restaurants, hotels, law enforcement, laundry facilities, rental car companies, and even construction businesses. Residents also rented out their homes and were compensated for being extras in the film. Harlan County saw a $3 million economic impact during the filming of *Above Suspicion*. Displaced coal mine workers' skills can also be funneled into the film industry by utilizing their talents as electricians, carpenters, and painters.

David Cottingham, COO of Post Time Studios, offered a film industry viewpoint by giving an overview of Post Time Studios. Post Time Studios is a full service production company that was established in Lexington in 1993. In 2003, it was one of the first production studios in the region to have a high definition editing system, which over the years led to an increased volume of clients and productions. Mr. Cottingham described the two factors he believes have made Post Time Studios successful. First, the studio considers their clients as partners and this allows for returning and continued business. Secondly, Post Time Studios is not industry specific and productions include a wide variety of projects in areas such as long form, short form, documentary film, marketing, training, safety, healthcare, tourism and athletics. Most of the talented staff that make these productions possible are natives of Kentucky and several are Asbury University graduates. In the last two years, the company has doubled its employees and moved into a larger facility. The new facility and increased staff has helped to attract larger budgeted productions. Mr. Cottingham expressed optimism about the current climate of the film industry in the state and will continue to develop in the future in part due to the film tax incentives. The incentives help with overall production plans, investments, and local spend; lock productions into longer contracts, which in turn can provide employment opportunities; and generate new tax revenue for the Commonwealth.

Stephanie Stumbo, Executive Director of the Kentucky Film Association, gave a detailed overview of Kentucky's Film Tax Incentives, statistics and growth projections of the film industry since the incentives were passed in 2015, and industry needs. The purpose of the statutory provisions in KRS 148.544 was to encourage the film and entertainment industry to choose locations in Kentucky for filming and production, increase employment opportunities within the film and entertainment industry in the state, and develop a production and postproduction infrastructure in the Commonwealth. Since the start of the program in 2009 there has been a 900 percent growth in the number of productions coming to Kentucky.

Additionally, after the modifications of the film tax incentives, 20 productions were completed in 2016 that generated $32 million in new economic activity, created 384 new jobs, and yielded approximately $3.2 million in new tax revenue for Kentucky. Thus far in 2017, there are 111 productions currently approved and there has been a 169 percent increase in growth from previous 12 months. Projections were completed by the Kentucky film Association for 2017 and 2018 using actual data from 2016 and taking into account variables such as percent of productions approved, percent of productions that are completed, production periods, and cost of projects. It is projected that 33 projects will be completed in 2017 that could potentially generate $86 million in new economic activity, create 1,038 new jobs, and yield $8.6 million in new tax revenue for the Commonwealth. It is projected that projects completed in 2018 could potentially generate $146 million in new economic activity, create 1,754 new jobs, and yield $14.6 million in new tax revenue for the Commonwealth. Ms. Stumbo said in order for the film industry to continue to thrive in the state the film workforce must be expanded to increase the crew base, dislocated workers must be retrained to maximize their skills that can be used in the industry, and an infrastructure must be more fully developed, specifically a studio being located in Kentucky.

Kentucky Tourism, Arts and Heritage Cabinet

Deputy Secretary Regina Stivers expressed her thoughts on the film industry providing great opportunities to dislocated workers and others across the Commonwealth. She also complimented Jay Hall, Executive Director of the Office of Film and Tourism Development, for learning the film industry and promoting Kentucky to producers.

According to Jay Hall, in the United States in 2016 there were a total of 455 original scripted shows and 718 films released nationwide. There are two million people employed in the film industry totaling around $51 billion in wages paid. Between 2011 and 2016 there was an annual growth of 2.7 percent and there is a projected growth from 2016 to 2021 of 3.1 percent. In Kentucky from 2009 to 2015, there was $16 million spent by the film industry that supported 192 direct jobs. The total investment made by the industry from 2016 to the present is $46 million that is supporting 552 direct jobs. The direct jobs include those that are working directly on the production itself and does not include the jobs that are from the ancillary industries that service the film communities.

The film industry in Kentucky will only be successful if it maintains three components which include film incentives, crew, and studios. The Kentucky Film Incentive is a 30 to 35 percent refundable tax credit. There is a 35 percent refundable tax credit for filming in an enhanced incentive county. Counties are certified or decertified every year based on factors such as unemployment rate and median income. Out of all the applications received to date by the Office of Film and Tourism Development, production companies have identified 60 out of 120 counties in Kentucky as potential film locations. The crew component is being fulfilled by developing the film industry workforce through the Kentucky Film Certification Program. The program was recently announced by Asbury University and consists of online training modules and hands on training at a local university or production company. The third factor involves constructing studios in the Commonwealth. Every $1 million in studio construction will support 10 jobs, have an economic impact of $1.6 million, and other businesses enjoy an additional $600,000 in sales. Every 100 jobs created by having studios supports 80 additional jobs in other businesses and has a $25 million economic impact. Mr. Hall said that some studios have had apprehension about locating in Kentucky in the past due to the lack of crew base and the uncertainty of the stability an incentive program. Benefits of a successfully developed film industry includes positive changes to the perception of Kentucky, an increase in film tourism, and potential city revitalization of film communities across the state.

In response to Senator Ernie Harris, Mr. Hall said the Office of Film and Tourism Development tries to post on its website and Facebook page the productions that have been filmed Kentucky. Judge Martin added that the Southern Kentucky Film Commission also posts about movies and others projects being filmed in the state on its website and social media accounts.

Answering questions from Representative Wilson Stone, Mr. Hall explained that the reason that only about 30 percent of approved productions actual come to fruition is ultimately due to issues with financing, crew base, and scheduling of actors. The two years window that was included in the film incentive legislation helps solve some of these issues. Ms. Stumbo stated that the 30 percent statistic is from 2016, the percentage will be higher from 2017, and the 2017 statistics will be available in 2018. She also stated that in an effort to increase the number of productions that film in the state, Jay Hall and the Office of Film and Tourism Development travel to and have lines of communication with directors, producers, and those who scout movie locations to promote the Commonwealth. The film commissions and associations also travel to market Kentucky.

Responding to Representative Kim King, Dr. Owens said that there are currently 15 students who are enrolled in the Kentucky Film Certification Program and the goal is to have approximately 100 individuals complete the program in the next year.

After Representative Chris Harris expressed concern about in-state corporations using the incentive program for the filming of commercials, Mr. Hall confirmed that Kentucky businesses do film commercials under the program. Ms. Stumbo stated that those in-state business commercials are included in the 111 currently approved projects. Kentucky has $12.1 billion in tax expenditures that includes incentives, tax deductions, and credits. The Kentucky Film Incentive Program accounts for a one hundredth of a percent of the total tax expenditures in the state. Answering a follow up question, Mr. Hall said that a full data set will be available for statistical analysis in July 2018 that will assist in determining how well the film industry has developed in the state since the implementation of the incentive program by the General Assembly.

Visit LEX

Mary Ramer, President of Visit LEX, gave updates on the status of the tourism industry in the Lexington area and several Lexington and Fayette County projects and expansions. The Lexington area currently employs about 26,000 in the hospitality industry and Ms. Ramer said she expects that number to increase in the future. For every dollar that the Department of Tourism spends on advertising the return on investment is $151 back to the state. Ms. Ramer said that that the areas of tourism and economic development often work together and she works closely with the city of Lexington, Commerce Lexington, and the universities.

The Lexington Convention Center Expansion is moving forward partly due to the 2015 legislation that loaned $60 million for its expansion. Construction will start in spring 2018 and is scheduled to be complete in about 45 months. The expansion will include an additional 100,000 square feet of contiguous exhibit space and 25,000 square foot ballroom. The Old Fayette Courthouse is currently being renovated with an expected completion date being in 2018 and will house administrative offices and a visitors' center for Visit LEX, offices for Breeders' Cup, and a restaurant. Construction for Centerpointe in downtown Lexington is also underway and will include a Residence Inn, a full-service Marriott, restaurants, and retail space. Ms.

Ramer also detailed the planning of a park called Town Branch Commons that is slated to have an event space, amphitheater, several children's play areas, dining options, and a water feature. Town Branch Commons is privately funded. Near the park will also be Town Branch Greenway, which will be almost three miles of greenway and has been supported through public funds.

The hospitality industry uses occupancy, average daily rate, and revue per average room for market analysis. For 2017 year to date, all three of these areas have increased from previous years' statistics. The revenue per average room is up 5.7 percent. Lexington as a total of 7,790 hotel room spread out through 70 properties. Seven new hotels are scheduled to open in Fayette County between now and 2023. Ms. Ramer expressed her appreciation for the continued support of the legislature for its support of the tourism industry.

With no further business to come before the committee, the meeting was adjourned at 12:40 p.m.

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

Minutes of the 5th Meeting of the 2017 Interim

October 19, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Tourism, Small Business and Information Technology was held on Thursday, October 19, 2017, at 11:00 AM, in Wilmore, KY at Asbury University in the Andrew S. Miller Center for Communication Arts. The meeting was a joint meeting with the Interim Joint Committee on Tourism, Small Business, and Information Technology. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Ernie Harris, Stephen Meredith, Wil Schroder, and Reginald Thomas; Representatives John Blanton, Larry Brown, Matt Castlen, Jeffery Donohue, Chris Fugate, David Hale, Chris Harris, Dan Johnson, Kim King, Michael Meredith, Russ Meyer, Rick Nelson, Sannie Overly, Melinda Gibbons Prunty, Bart Rowland, John Sims, and Diane St. Onge.

Guests: Dr. Sandra Gray, President, Asbury University; Dr. Jim Owens, Dean of the School of Communication Arts and Professor of Media, Asbury University; Judge Terry Martin, Judge Executive, Hart County; Brandon Jennings, Director, Harlan County Tourism; David Cottingham, COO, Post Time Studios; Stephanie Stumbo, Executive Director, Kentucky Film Association; Deputy Secretary Regina, Kentucky Tourism, Arts and Heritage Cabinet; Jay Hall, Executive Director, Office of Film and Tourism Development, Kentucky Tourism, Arts and Heritage Cabinet; and Mary Ramer, President, Visit Lex.

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

Approval of Minutes

A motion to approve the minutes of the September 21, 2017 meeting was made by Representative Michael Meredith, seconded by Representative Larry Brown, and approved by voice vote.

Asbury University

Dr. Sandra Gray, President of Asbury University, gave a brief overview of the university after thanking members for continuing to invest in the progress and development of the Commonwealth. Asbury University was founded in 1890 and at the time was one of few institutions that admitted women. In the early 1900s, it began offering business and commerce courses which was uncommon during that period. Presently, half of the students come from out of state, and 16 percent of those students become Kentucky residents upon graduating. Dr. Gray commented on the recent partnership with The Kentucky Film Commission which has led to the creation of a certification program that will increase the labor force in the film industry. She extended the invitation to return the university at a later time to explore other programs besides the School of Communication Arts such as the equine program, The Howard Dayton School of Business, and the School of Education.

Dr. Jim Owens, Dean of the School of Communication Arts and Professor of Media Communication, stated that the School of Communication Arts has approximately 450 students majoring in programs such as journalism, theater and cinema production, worship arts, and media communication. Students majoring in media communication comprise nearly half of the School of Communication Arts. Media communication students have the opportunity to study areas of film, television, multi-media, media performance, media management, audio, and production design. Dr. Owens added that the academic excellence of the program can be attributed to a combination of education, experience, and industry recognition of the faculty that includes production design, sitcom directing for various networks, national Emmy awards, and prestigious honors for work on the National Geographic and Smithsonian channels. In addition, Dr. Owens also discussed the long term contract that the university holds with the Broadcast Division of the International Olympic Committee to provide broadcast training to students and personnel.

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Judge Terry Martin, Judge Executive of Hart County, gave a local perspective of the economic impact seen in his area from the film tax incentives that the General Assembly approved in 2015. Several different projects have been filmed in Hart County and surrounding counties including one for the Hallmark Channel called *An Uncommon Grace* that added about $500,000 to the local area economies. Judge Martin attributed producers choosing to film in his area to the beautiful scenery, the hospitality of the residents, and the level playing field that was created by the tax incentives for film production. As a result of the successful completion of projects such as *Mail Order Monster* and *Runaway Romance*, the Southern Kentucky Film Commission was created by Hart, Barren, Warren, and Edmonson Counties to assist in attracting film producers to Southern Kentucky. Judge Martin explained that although the introduction of the film industry as a new form of revenue for the Southern Kentucky region is nontraditional economic development, it has the potential to add jobs in businesses that will be needed to supply materials and services to film production teams. In an effort to continue film industry development in the Commonwealth, a new infrastructure is needed, as well as the training of Kentuckians in order to provide a skilled film industry workforce. He suggested production studio being located in Southern Kentucky, internships and co-ops being offered to high school students, and training being done throughout the Kentucky Community and Technical College System.

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Kentucky Tourism, Arts and Heritage Cabinet

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According to Jay Hall, in the United States in 2016 there were a total of 455 original scripted shows and 718 films released nationwide. There are two million people employed in the film industry totaling around $51 billion in wages paid. Between 2011 and 2016 there was an annual growth of 2.7 percent and there is a projected growth from 2016 to 2021 of 3.1 percent. In Kentucky from 2009 to 2015, there was $16 million spent by the film industry that supported 192 direct jobs. The total investment made by the industry from 2016 to the present is $46 million that is supporting 552 direct jobs. The direct jobs include those that are working directly on the production itself and does not include the jobs that are from the ancillary industries that service the film communities.

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In response to Senator Ernie Harris, Mr. Hall said the Office of Film and Tourism Development tries to post on its website and Facebook page the productions that have been filmed Kentucky. Judge Martin added that the Southern Kentucky Film Commission also posts about movies and others projects being filmed in the state on its website and social media accounts.

Answering questions from Representative Wilson Stone, Mr. Hall explained that the reason that only about 30 percent of approved productions actual come to fruition is ultimately due to issues with financing, crew base, and scheduling of actors. The two years window that was included in the film incentive legislation helps solve some of these issues. Ms. Stumbo stated that the 30 percent statistic is from 2016, the percentage will be higher from 2017, and the 2017 statistics will be available in 2018. She also stated that in an effort to increase the number of productions that film in the state, Jay Hall and the Office of Film and Tourism Development travel to and have lines of communication with directors, producers, and those who scout movie locations to promote the Commonwealth. The film commissions and associations also travel to market Kentucky.

Responding to Representative Kim King,

Dr. Owens said that there are currently 15 students who are enrolled in the Kentucky Film Certification Program and the goal is to have approximately 100 individuals complete the program in the next year.

After Representative Chris Harris expressed concern about in-state corporations using the incentive program for the filming of commercials, Mr. Hall confirmed that Kentucky businesses do film commercials under the program. Ms. Stumbo stated that those in-state business commercials are included in the 111 currently approved projects. Kentucky has $12.1 billion in tax expenditures that includes incentives, tax deductions, and credits. The Kentucky Film Incentive Program accounts for a one hundredth of a percent of the total tax expenditures in the state. Answering a follow up question, Mr. Hall said that a full data set will be available for statistical analysis in July 2018 that will assist in determining how well the film industry has developed in the state since the implementation of the incentive program by the General Assembly.

Visit LEX

Mary Ramer, President of Visit LEX, gave updates on the status of the tourism industry in the Lexington area and several Lexington and Fayette County projects and expansions. The Lexington area currently employs about 26,000 in the hospitality industry and Ms. Ramer said she expects that number to increase in the future. For every dollar that the Department of Tourism spends on advertising the return on investment is $151 back to the state. Ms. Ramer said that that the areas of tourism and economic development often work together and she works closely with the city of Lexington, Commerce Lexington, and the universities.

The Lexington Convention Center Expansion is moving forward partly due to the 2015 legislation that loaned $60 million for its expansion. Construction will start in spring 2018 and is scheduled to be complete in about 45 months. The expansion will include an additional 100,000 square feet of contiguous exhibit space and 25,000 square foot ballroom. The Old Fayette Courthouse is currently being renovated with an expected completion date being in 2018 and will house administrative offices and a visitors' center for Visit LEX, offices for Breeders' Cup, and a restaurant. Construction for Centerpointe in downtown Lexington is also underway and will include a Residence Inn, a full-service Marriott, restaurants, and retail space. Ms. Ramer also detailed the planning of a park called Town Branch Commons that is slated to have an event space, amphitheater, several children's play areas, dining options, and a water feature. Town Branch Commons is privately funded. Near the park will also be Town Branch Greenway, which will be almost three miles of greenway and has been supported through public funds.

The hospitality industry uses occupancy, average daily rate, and revue per average room for market analysis. For 2017 year to date, all three of these areas have increased from previous years' statistics. The revenue per average room is up 5.7 percent. Lexington as a total of 7,790 hotel room spread out through 70 properties. Seven new hotels are scheduled to open in Fayette County between now and 2023. Ms. Ramer expressed her appreciation for the continued support of the legislature for its support of the tourism industry.

With no further business to come before the committee, the meeting was adjourned at 12:40 p.m

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 5th Meeting of the 2017 Interim

October 26, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 26, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Steven Rudy, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: John Chilton, State Budget Director; Greg Harkenrider, Deputy Executive Director, Office of the State Budget Director; Michael Jones, Governor's Office for Policy Research.

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

Approval of the Minutes

Senator Alvarado made a motion, seconded by Representative Santoro, to approve the minutes of the September 28, 2017 meeting. The motion carried by voice vote.

Presentation regarding the Consensus Forecasting Group meeting and the Administration's response

John Chilton, State Budget Director and Greg Harkenrider, Deputy Executive Director, Office of the State Budget Director gave an update since the July 2017 A&R meeting.

Mr. Harkenrider updated the committee on the new revenue estimates from the Consensus Forecasting Group (CFG). FY 2017 ended with a $138.5 million General Fund shortfall. After the CFG met in August, there was an estimated $206.2 million FY 2018 shortfall. Governor Bevin put Cabinets on alert that budget cuts were imminent and asked for reduction plans.

He explained that the CFG met again in October for preliminary budget estimates and an official revision to FY 2018 General Fund enacted estimate. He reported that the shortfall would be $155.6 million.

Mr. Harkenrider concluded with multiple slides pertaining to projections on revenue for the next fiscal year and what the outlook would be for the Commonwealth.

In response to a question from Chairman Rudy, Director Chilton explained that all Cabinets were told to develop a plan to reduce spending during this fiscal year in anticipation of the $200 million shortfall. All agencies have presented plans, but there are additional questions on where expenditures might be cut.

In response to a question from Chairman Rudy, Director Chilton stated that the agencies have been directed to include the spending reductions in the upcoming budget plans.

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement

Minutes of the 3rd Meeting of the 2017 Interim

October 26, 2017

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 26, 2017, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Suzanne Miles, Co-Chair; Senator Dennis Parrett; Representatives Tim Couch, Will Coursey, Kenny Imes, Adam Koenig, Michael

Meredith, Russ A. Meyer, Jerry T. Miller, Phil Moffett, Rick G. Nelson, and Steven Rudy.

Guests: John Holiday, Executive Director, Kentucky Office of Homeland Security (KOHS); Mike Sunseri, Deputy Executive Director, KOHS; and, Jarred Ball, KY 911 Board Administrator, KOHS.

LRC Staff: Liz Columbia and Spring Emerson.

Kentucky Office of Homeland Security

John Holiday, Executive Director, KOHS; Mike Sunseri, Deputy Executive Director, KOHS; and, Jarred Ball, KY 911 Board Administrator, KOHS; provided a brief overview of the agency budget.

Co-Chair Carroll commented that Executive Director Holiday is very qualified for the position. In response to a question from Co-Chair Carroll regarding the use of law enforcement grants, Mr. Holiday said the funds are used primarily for replacement of firearms, which last for about ten years, and body armor, which lasts for about five to seven years. A breakdown of the latest grants that were awarded throughout the state was provided in the meeting packet.

In response to questions from Co-Chair Miles regarding expired equipment, Mr. Holiday said it depends on the type of equipment as to how long it lasts. A common sense element of judgement would have to be used by the local authorities in determining whether certain equipment could be used after the expiration date. Mr. Sunseri added that teams of peers review the grant applications for equipment. In some cases, even though a piece of equipment may have expired without ever being used, it may still be unusable after the expiration date. Grants were distributed equally across the state, and funding was provided for equipment for communications, personal protection, detection, chemical/biological, search and rescue, explosive device remediation, and medical equipment. Mr. Holiday said technology changes almost daily, and becomes obsolete. Mr. Sunseri said it is important to bridge the inter-operability gaps. Representative Miles commented that communication is a major concern. Co-Chair Carroll commented that it is a very valid concern and remembers the safety risk involved with the communications issues during ice storms in the past.

In response to questions from Representative Koenig, Mr. Ball said the extra $1.4 million comes from a combination of both salary reductions and the point of sale legislation in the 911 Bill, which increases the collectability of 911 usage on cell phones. Mr. Sunseri added that the maps in the packet show the Homeland Security Grant Program and the Law Enforcement Protection Program separately. Mr. Ball said the Next Generation 911 program is being developed. Mr. Sunseri added that the last statewide plan in 2009 is now completely obsolete. Mr. Ball said the Next Generation 911 will move from the traditional phone system to an Internet Protocol (IP) network, which will allow calls to be able to accept texts, photos, and videos. Mr. Holiday added that it would also decrease the response time.

In response to questions from Representative Moffett, Mr. Holiday said the KOHS is a state group in the Executive Branch, but is federally funded. Federal funds do not pay for guns and ammunition; those are funded 100 percent by state funds through the Law Enforcement Protection Program.

In response to a question from Representative Miller, Mr. Holiday said there would be no change in the agency budget request.

Representative Meredith commented that ambulance services in Edmonson County are passing on an unfunded mandate for certain equipment. Mr. Sunseri said there are commonly matching funds.

Senator Parrett pointed out that the City of Lowell was listed in the documents as being in Hardin County; however, it is actually in Harlan County.

Co-Chair Carroll called for a motion to approve the minutes of the last meeting, held on September 28, 2017. The motion was made by Representative Miller and seconded by Representative Moffett, and the minutes were approved without objection.

There being no further business before the subcommittee, the meeting was adjourned at 11:00 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

Minutes of the 4th Meeting of the 2017 Interim

October 26, 2017

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 26, 2017, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Jill York, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Jill York, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, and Alice Forgy Kerr; Representatives Jim Gooch Jr., Steve Riggs, Diane St. Onge, Tommy Turner, and Ken Upchurch.

Guests: Don Parkinson, Secretary, Tourism, Arts, and Heritage Cabinet (TAHC); Regina Stivers, Deputy Secretary, TAHC; Laura Prewitt, Executive Director, Kentucky Horse Park, TAHC; Kristen Branscum, Commissioner, Department of Tourism, TAHC; Representative Dan Johnson; Gregory Johnson, Commissioner, Department of Fish and Wildlife Resources, TAHC; Chris Reece, Executive Director, Office of Finance, TAHC; Charles Snavely, Secretary, Energy and Environment Cabinet (EEC); and Bruce Scott, Deputy Secretary, EEC.

LRC Staff: Sara Rome, Greg Troutman, and Jennifer Luttrell.

Tourism, Arts, and Heritage Cabinet Budget Update

Secretary Parkinson provided a brief update on the budget of the Tourism, Arts, and Heritage Cabinet (TAHC).

In response to questions from Rep. St. Onge, Secretary Parkinson stated that the cabinet is looking at starting a yearly event at the Kentucky Horse Park (KHP) beginning in 2019. Ms. Prewitt stated that the annual three day equestrian event will no longer be named for Rolex after 2019, as the new named sponsor is Land Rover. Ms. Prewitt noted that the KHP polo fields are not up to professional standard, which creates difficulty when attempting to lure polo teams for exhibitions.

In response to questions from Rep. Riggs, Secretary Parkinson noted that Asbury University spent $50,000 creating a training program for film workers to assist in bringing film business to the state. Secretary Parkinson noted that the cabinet has granted incentives to 25 film projects in 2017.

In response to questions from Sen. Kerr, Commissioner Branscum said that the cabinet is attempting to bring more attention to Kentucky's regional cuisine because culinary tourism is a big business.

In response to a question from Rep. Johnson, Commissioner Johnson said that Asian Carp sells for $.15 to $.17 per steak. Secretary Parkinson noted that about five million pounds of Asian Carp are removed from Kentucky Lake and Lake Barkley every year. Secretary Parkinson noted that the cabinet's goal is to remove around seventeen million pounds from Kentucky waterways per year.

In response to questions from Chair York, Deputy Secretary Stivers noted that the cabinet leases marinas to private companies. Secretary

Parkinson stated that the Berea Artisan Center sits on interstate-75. Secretary Parkinson stated that the welcome centers on the southern edge of the state on interstate-75 and interstate-65 both need to be rebuilt.

Energy and Environment Cabinet Budget Update

Secretary Snavely provided a brief update on the budget of the Energy and Environment Cabinet (EEC).

In response to questions from Rep. St. Onge, Secretary Snavely stated that two thousand tons of radioactive fracking waste from other states was brought in to Kentucky and dumped in a solid waste landfill in Estill County. Deputy Secretary Scott said that there is a plan in place to remove the radioactive waste.

In response to a question from Rep. Riggs, Secretary Snavely noted that it is easier to get into the natural gas business than it is to get into the coal business. Secretary Snavely said that Kentucky just doesn't have as much natural gas in the ground as other states and the economics make it less attractive to businesses.

In response to a question from Rep. St. Onge, Deputy Secretary Scott said the cabinet uses drones for a variety of scientific purposes.

There being no further business before the subcommittee, the meeting was adjourned at 11:55 AM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 5th Meeting of the 2017 Interim

October 20, 2017

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Judiciary was held on Friday, October 20, 2017, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators Danny Carroll, Perry B. Clark, Ray S. Jones II, Alice Forgy Kerr, John Schickel, Dan "Malano" Seum, and Robin L. Webb; Representatives Robert Benvenuti III, John Blanton, Larry Brown, Tom Burch, McKenzie Cantrell, Daniel Elliott, Angie Hatton, Joni L. Jenkins, Stan Lee, Chad McCoy, C. Wesley Morgan, Jason Nemes, Jason Petrie, Brandon Reed, and Kevin Sinnette.

Guests: Chief Justice John D. Minton Jr. and Representative Diane St. Onge.

LRC Staff: Katie Comstock, Alice Lyon, Chandani Kemper, Dale Hardy, Matt Trebelhorn, and Jay Jacobs.

State of the Judiciary

Chief Justice of Kentucky John D. Minton Jr. presented the 2017 State of the Judiciary address. He began by thanking the General Assembly for allowing him to present and the nearly 3,800 individuals that work for Kentucky's judicial branch.

Chief Justice Minton stated the Administrative Office of the Courts (AOC) is currently facing several challenges. AOC is grappling to keep up with rapid technological and social developments, the opioid epidemic has expanded court caseloads and altered Drug Court treatment, and juvenile justice reform and pretrial justice reform are top priorities. These forces have led AOC to put aside business practices that no longer work and adopt new practices that meet current needs.

Kentucky Pretrial Services continues to lead the nation. In 1976, Kentucky was one of the first states in the country to abolish bail bonding for profit and AOC's leadership continues today as AOC managers share their expertise on pretrial programs each year. The goals of pretrial release are to ensure public safety by determining which people should be released and which people should stay in jail, and to help ensure that those released come back to court. To meet these goals, pretrial officers apply a validated risk assessment to the defendant's criminal history. The risk of the defendant to fail to appear or to be arrested again is then reported to the court. Properly assessing and determining pretrial release is extremely important, and AOC continues to refine that process.

Chief Justice Minton announced that AOC's Department of Pretrial Services has recently undergone its most extensive reorganization in several years. Pretrial officers must apply the risk assessment tool consistently statewide so that all judges can be confident they are receiving reliable, accurate information. Also, AOC is improving how pretrial officers report risk assessment information. The scoring process has recently been revised and AOC believes this change will increase the accuracy of the scoring. AOC's Department of Pretrial Services is offering an *Updates to Risk Assessment Scoring* seminar for judges, prosecutors, and public defenders in eight locations across the state in October.

Chief Justice Minton spoke about the financial incentive fund from Senate Bill 200. AOC is working with the Kentucky Justice and Public Safety Cabinet and the Department of Juvenile Justice to launch the financial incentive fund. Senate Bill 200 requires the savings realized from juvenile justice reform to be reinvested in programs that supervise low-risk youth. The money AOC would have spent to detain youth will instead be used to provide resources and treatment services to young people. AOC will support the incentive fund by acting as the fiscal agent, providing assistance for grant applications, and collecting and reporting the data required from judicial districts. The AOC Department of Family and Juvenile Services and the Department of Juvenile Justice began this support by hosting community partner meetings in each of the 66 judicial districts to educate those jurisdictions about how the fund will work.

In response to Governor Bevin's call to improve Kentucky's adoption process, Chief Justice Minton created a Dependency, Neglect and Abuse (DNA) Judicial Workgroup. This workgroup identifies policies that would reduce the adoption timeline, and addresses inefficient policies and redundant paperwork. The workgroup will focus specifically on policies and processes that directly impact the permanency, safety, and well-being of children. Also, the DNA Judicial Workgroup is collaborating with the Cabinet for Health and Family Services, the Justice and Public Safety Cabinet, the Finance and Administration Cabinet, and the Department of Education to resolve local court-community barriers, enhance support for various initiatives, and determine how to better serve Kentucky's children and families.

Chief Justice Minton spoke on AOC's investments in court technology, which was one of his biggest goals when becoming the Chief Justice in 2008. Nearly 900,000 court cases are filed in Kentucky state courts each year, and he stated that adapting to the rapid changes in technology for use by the courts was one of the biggest challenges. In 2013, the Administrative Office of the Courts started KYeCourts, a multi-year initiative to update court technology. Four years later, AOC is upgrading the hardware and network infrastructure, replacing trial and appellate case management systems, and providing a document management system that will electronically store and index court documents. Also, eFiling is now available in all 120 Kentucky counties for civil and criminal cases in Circuit and District courts. AOC's next steps include expanding eFiling to juvenile, forcible detainer, and probate and appeals cases, and offering eFiling to self-represented litigants. While there has been success with eFiling, the paper file is still the official court record in Kentucky and AOC is unsure of when it will move completely to a paperless system. In addition, AOC anticipates rolling out a new appellate case management system and an eFiling system for the Supreme Court and Court of Appeals in 2018. CourtNet 2.0, which provides near real-time, online access to Kentucky civil and criminal cases, also continues to expand. AOC has started a pilot project in Trimble County that will be the basis for a new, statewide case management system and electronic court record.

Chief Justice Minton also spoke about new policies that will save money while improving juror reporting and making jury management more uniform statewide. The Supreme Court recently adopted amendments to the Rules of Administrative Procedures for Jury Selection and Management. The changes took effect October 1. The new rules call for centralized mailing of juror summonses, which will save time and money. Also, each county will now use AOC's electronic Jury Management Program to administer jury management practices and procedures. The Jury Management Program will record disqualifications, excuses, and permanent exemptions of summoned jurors.

Another important change clarifies how AOC compiles the master list of prospective jurors from the statutorily required source lists. In an effort to reduce the number of undeliverable summonses, AOC worked with the source list providers to ensure the availability of the most accurate information about people who are eligible for service. AOC is also making an effort to reduce the number of people who fail to appear for jury service, and has developed a postcard to notify prospective jurors of their delinquent status with directions to contact the court.

This summer, the seven Supreme Court Justices voted unanimously to approve an Open Records Policy. The policy took effect August 15, 2017. This is the first Open Records Policy for AOC. The policy is in the form of an Administrative Procedure of the Court of Justice, which carries the weight of law under the Kentucky Constitution. Chief Justice Minton stated that while the Judicial Branch has long complied with the spirit of the Open Records Act, he was proud that AOC's commitment was written into policy.

Chief Justice Minton addressed the opioid epidemic in Kentucky and how it is effecting Kentucky families and children. To help judges handle drug-related cases, and give judges a better understanding of addiction and treatment, AOC hosted the first statewide Opioid Summit in January 2017. Judges learned about the science of treating addiction; case law, statutes, and regulations regarding medication-assisted treatment; and the role of the government in the opioid epidemic. In August 2017, AOC held a statewide conference for the Department of Specialty Courts, where judges, court staff, probation and parole officials, prosecutors, public defenders, treatment providers, and others who are part of Specialty Court teams were invited. The sessions covered the latest trends in treatment for participants in Drug Court, Veterans Treatment Court, DUI Court and Mental Health Court.

On the regional level, Chief Justice Minton was part of a team from Kentucky that participated in the first Regional Judicial Opioid Initiative (RJOI) in August 2016. Participants included teams from Kentucky, Ohio, Illinois, Indiana, Michigan, Pennsylvania, Tennessee, Virginia, and West Virginia, along with critical public and private partners. The goal of the summit was to create a framework that would coordinate the state and federal policymakers who are confronting the opioid problem. Several Supreme Court justices and court administrators from this region have committed to serving on the RJOI Leadership Committee. The Supreme Court of Ohio, on behalf of the RJOI, has been awarded a three-year, $1 million grant from the Bureau of Justice Assistance to improve prescription drug monitoring exchanges across state lines, establish regional best practices, and standardize procedures to provide a more unified regional response to the opioid epidemic. The Conference of Chief Justices and the Conference of State Court Administrators have formed a joint Opioid Task Force with funding from the State Justice Institute. The task force will encourage the sharing of strategies and will identify unmet needs, create partnerships to address the impact of opioids on children and families, and develop principles for state courts to use when collaborating with treatment providers, criminal justice systems, and child welfare agencies.

Chief Justice Minton discussed changes to Kentucky's guardian ad litem program. More than 11,300 Kentucky children are in state custody because they have been removed from their homes due to dependency, neglect, or abuse. Guardians ad litem are attorneys who provide legal representation to these children. The Judicial Branch is working with the Executive and Legislative Branches to establish more consistent payment practices statewide. The Supreme Court and the Finance and Administration Cabinet are finding ways to clarify practices and jointly create rules and forms that will increase accountability for the state dollars that pay for these services.

AOC wants to be proactive in helping Kentucky attorneys adapt to new trends in the practice of law. To achieve this, the Kentucky Bar Association has created a Commission on the Future of the Legal Profession. The commission is designed to identify and explore all areas relevant to the practice of law and the delivery of legal services. Four subcommittees have also been created to address the issues of access to justice, transitions within the practice of law, sustainability of the legal profession, and technology.

As mandated by the legislature in the Judicial Branch budget bill in the 2014 Regular Session, the General Assembly received a comprehensive, statewide judicial redistricting plan. Chief Justice Minton stated that research shows the last statewide redistricting took place in 1893. AOC's statewide plan responds to access to justice needs across the commonwealth. While the legislature did not take up judicial redistricting during the 2017 regular session, Chief Justice Minton stressed the need for statewide redistricting. He stated that the jurisdictions in urgent need of redistricting include: Lincoln, Pulaski, and Rockcastle; Boone and Gallatin; Kenton; Floyd; Knott and Magoffin; Bourbon, Scott, and Woodford; and Daviess. The plan certified by the Supreme Court is still valid, but AOC is open to modifying that plan.

Chief Justice Minton discussed the need to improve Judicial Branch salaries. Despite some recent improvements in compensation for elected circuit clerks and non-elected employees, those salaries still fall short. He also stated that a growing number of non-elected employees' compensation falls below the federal poverty guidelines. Since 2007, judges have received only two years of 1 percent raises and two years of $400 raises. A January 2017 Survey of Judicial Salaries by the National Center for State Courts shows that Kentucky has fallen in national rankings, with Circuit Court salaries ranked 48 out of 50 states. Chief Justice Minton said he will be including a request to increase compensation for judges, circuit clerks, and non-elected employees in AOC's biennial budget.

Responding to a question from Senator Seum, Chief Justice Minton stated that depending on circumstances, a person who does not attend jury duty may be charged with contempt of court.

Responding to a follow-up question from Senator Seum, Kelly Stevens, Manager of AOC's Court Services Division, stated that eWarrents are state-wide and that statistics remain high.

Responding to a question from Senator Webb, Lori Dudgeon, Director of AOC, stated that the DNA Judicial Workgroup will provide suggestions that it feels will improve foster care and adoption in Kentucky.

Responding to a question from Representative Cantrell, Carole Henderson, AOC Budget Director, stated that AOC's current fiscal health is good.

Responding to a question from Representative Blanton, Chief Justice Minton stated that the open records changes includes furnishing tax information on request.

Responding to a question from Senator Schickel, Chief Justice Minton stated that AOC is readdressing the Code of Judicial Conduct to the most recent federal ruling regarding candidates associating with political parties.

Responding to a question from Representative Morgan, Chief Justice Minton stated that a Circuit Court judge's salary is $124,780 per year. Ms. Henderson stated that a 10 percent salary increase over the next two years would rank Kentucky at 39 out of 50 states.

Responding to a follow-up question from Representative Morgan, Chief Justice Minton stated that the amount of children entering the foster system is extremely high and, in his opinion, a real problem in the Commonwealth.

Responding to questions from Representative Nemes, Chief Justice Minton stated that AOC's emails are exempted from the Open Records rule because of prohibition against judges having contact with parties or lawyers involved in litigation. Chief Justice Minton stated that Kentucky does the best job in the area of pretrial.

Brian Cumbo, President of the Martin County Bar Association, expressed opposition for judicial redistricting in Martin County. He and many others do not support moving Martin County from the 24th Judicial circuit.

Unmanned Aircraft Systems: BR 2

Representative Diane St. Onge presented BR 2, which is the same as House Bill 291 from the 2017 Regular Session. BR 2 is a bill that attempts to balance privacy rights with drone usage in Kentucky.

Use of drones by law enforcement officers would also be regulated under this bill. If law enforcement wishes to use a drone during an investigation and search, a search warrant must be obtained and it must specifically authorize the use of an unmanned aircraft system (UAS). Also, when law enforcement uses a drone in a search or for legitimate government purposes, limited data shall be collected on non-suspects. Disclosure of data is prohibited except by court order.

Representative St. Onge said that, with this bill, a person is guilty of an offense with the aid of a UAS if it is under his or her control and the conduct would have given rise to criminal liability for the offense if preformed directly by the person. A person is guilty of an offense for intentionally obstructing or disrupting an emergency responder from preforming official duties. The first offense would be a violation and second or subsequent offenses would be a Class B misdemeanor

Responding to a question from Representative McCoy, Representative St. Onge stated that as a recreational user or a commercial user, evidence collected can be used in court.

Responding to a question from Representative Benvenuti, Representative St. Onge stated that concerns about this expressed by the Kentucky State Police (KSP) have been addressed and KSP supports the bill.

Responding to a question from Senator Carroll, Representative St. Onge stated that she is waiting to hear from the Federal Aviation Administration (FAA) to move forward with a separate bill.

There being no further business, the meeting adjourned at 11:34 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Human Resources

Minutes of the 2nd Meeting of the 2017 Interim

October 26, 2017

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 26, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Russell Webber, Co-Chair; Senators Morgan McGarvey and Stephen Meredith; Representatives Joni L. Jenkins, Kimberly Poore Moser, Susan Westrom, and Addia Wuchner.

Guests: Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services (CHFS); Eric Lowery, Acting Executive Director, Office of Policy and Budget, CHFS; Eric Clark, Chief of Staff, Secretary's Office, CHFS; Steve Miller, Commissioner, Department for Medicaid Services (DMS), CHFS; Veronica Cecil, Deputy Commissioner, DMS, CHFS; Russ Ranallo, Vice President, Finance, Owensboro Health Systems; Carl Herde, Vice President, Finance, Kentucky Hospital Association; Senator Dennis Parrett, Norma Hatfield, Kinship Care Program Participant; and Adria Johnson, Commissioner, Department for Community Based Services, CHFS.

LRC Staff: Miriam Fordham, Jake Fouts, and Benjamin Thompson.

Cabinet for Health and Family Services Budget Overview

Deputy Secretary Feeley provided a brief overview of the budget for CHFS.

In response to a question from Chair Webber, Mr. Lowery stated that CHFS had submitted a budget reduction plan to the Governor's Office of Policy and Management (GOPM) but had not received a determination yet.

In response to questions from Sen. Alvarado, Deputy Secretary Feeley said that additional 1915(c) waiver slots had been put on hold until the cabinet receives a response from GOPM on the budget reduction plan. Deputy Secretary Feeley noted that the cabinet is ready to implement the Medicaid 1115 waiver with the Governor's office but is waiting for a response from the federal Department for Health and Human Services.

In response to questions from Rep. Jenkins, Mr. Lowery stated that between sixty to seventy percent of the cabinet's funding is from the federal government. Mr. Lowery confirmed that the budget reduction plan could result in a loss of federal funds.

Medicaid Budget Overview and Update

Commissioner Miller provided an overview of the budget for the Department for Medicaid Services.

In response to a question from Rep. Wuchner, Commissioner Miller stated that the decrease in per member costs for Medicaid was not due to Managed Care Organizations (MCOs) neglecting to pay providers.

In response to questions from Sen. Alvarado, Commissioner Miller noted that MCO contracts for plans beginning January 1, 2019 would be up for bid in the spring of 2018. Commissioner Miller said that the cabinet is looking at limiting the number of MCOs beginning with the new contracts that will start on January 1, 2019. Commissioner Miller stated that fee-for-service Medicaid members are primarily the long term care and waiver populations.

In response to questions from Sen. Meredith, Commissioner Miller noted that the Medicaid 1115 waiver, if approved, would incentivize improving health outcomes. Commissioner Miller stated that the cabinet anticipates a savings of two billion dollars over five years if the Medicaid 1115 waiver is approved, with $300 million of that total being saved by the state.

Medicaid Disproportionate Share Hospital (DSH) Payments

Mr. Ranallo and Mr. Herde presented an update on DSH payments and the concerns of the Kentucky Hospital Association.

In response to questions from Sen. Alvarado, Mr. Ranallo confirmed that DSH payments help smaller hospitals to set yearly budgets.

Kinship Care

Senator Parrett and Ms. Hatfield presented on the issue of kinship care in Kentucky.

In response to questions from Chair Webber, Commissioner Johnson noted that 350 children are impacted by a recent court ruling on kinship care and that the cost to the state would be between three and a half and four million dollars. Commissioner Johnson stated that she was unsure of the time frame needed to fulfil the court order.

There being no further business before the subcommittee, the meeting was adjourned at 11:54 AM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 6th Meeting of the 2017 Interim

November 3, 2017

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Judiciary was held on Friday, November 3, 2017, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators Joe Bowen, Danny Carroll, Perry B. Clark, John Schickel, Dan "Malano" Seum, and Robin L. Webb; Representatives John Blanton, Larry Brown, Tom Burch, McKenzie Cantrell, Daniel Elliott, Angie Hatton, Joni L. Jenkins, Chad McCoy, C. Wesley Morgan, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Brandon Reed, and Ken Upchurch.

Guests: Senator Whitney Westerfield, Ashlea Christiansen, Stella Moore, Caroline Ruschell, Winn Stephens, Laura Sudkamp, and Michelle Kuiper.

LRC Staff: Katie Comstock, Alice Lyon, Chandani Kemper, Dale Hardy, Matt Trebelhorn, and Elishea Schweickart.

Constitutional Rights for Crime Victims

Senator Westerfield, along with Ashlea Christiansen, Kentucky Executive Director for Marsy's Law, and Stella Moore, discussed Marsy's Law.

Legislation for Marsy's Law was filed in 2016 and again in 2017. Marsy's Law proposes changing Kentucky's constitution to create rights for crime victims. Kentucky is one of 15 states in the country that does not have some form of crime victim rights codified in their constitution. These constitutional rights would include:

Right to notice of court proceedings;

Right to be present at court proceedings;

Right to be heard at plea, sentencing, or any other proceeding implicating the victim's rights;

Right to notification of the release or escapes of the accused;

Right to be treated with fairness and respect for the victim's safety, dignity, and privacy;

Right to due process and a meaningful role in the criminal justice system;

Right to be informed of the constitutional rights afforded to victims of crime;

Right to full and timely restitution; and

Right to constitutional standing.

Senator Westerfield stated that while it is important that the accused have constitutional rights, the victims deserve them as well and this bill would not infringe on the constitutional rights of the accused.

Ms. Christiansen thanked many legislators for their support of Marsy's Law. Marsy's Law is named after Marsy Nicholas, a woman who was murdered by her ex-boyfriend. After her death, her family was harassed by the suspect and was not informed of his release. Ms. Christiansen stated that enacting Marsy's Law in Kentucky would help ensure that no other family experiences this type of retraumatization. She also stated that Marsy's Law is needed because when the accused is arrested and charged it is considered a crime against the state and victims become only witnesses. Marsy's Law would create a meaningful role in the criminal justice system for victims.

Ms. Moore, a Marsy's Law advocate, also spoke in support of the bill. She told the story of how her 21 year old grandson, Skyler, was shot. For three months, Skyler suffered physically before passing away. Since his passing, Ms. Moore stated that she has had very little information on the person accused of shooting her grandson. She urged the General Assembly to consider passing Marsy's Law in the 2018 Regular Session.

Senator Westerfield stated that Marsy's Law is a nonpartisan issue that stands for crime victims.

Responding to a question from Senator Seum, Senator Westerfield stated that prosecutors would shoulder most of the burden from Marcy's Law. However, prosecutors' offices already have a victims advocate.

Responding to a question from Representative Cantrell, Senator Westerfield stated that the current version of Marsy's Law does not contain many changes from the version that was filed in the 2017 Regular Session.

Responding to a follow-up question from Representative Cantrell, Senator Westerfield stated that workplace protection to allow victims to exercise their rights is not explicitly in the bill but it is something they are willing to consider.

Responding to a question from Representative Jenkins, Senator Westerfield stated that he does not believe there will be an appropriations measure in this bill.

Overview of Child Advocacy Centers

Caroline Ruschell, Executive Director for the Kentucky Association of Children's Advocacy Centers, and Winn Stephens, Executive Director for the Children's Advocacy Center of the Bluegrass, testified.

Before the Children's Advocacy Center (CAC) model, many children were required to tell the stories of their abuse to several different people and may have been asked inappropriate questions by someone not trained in post-traumatic investigation tactics. Not only did this make it difficult for victims to get the help that they needed, but it also made it difficult to get convictions.

The CAC model, which was adopted in 1998, allows children to come to a comfortable location and tell their story only once. Once an officer or case worker receives a report, they can bring the child to a CAC. The child tells their story once to a trained interviewer who knows the questions to ask without retraumatizing the child, then a team of professionals make a decision on how to proceed with the case. CACs also offer therapy, medical examines, courtroom preparation, victim advocacy, case management, and other services. All services offered are provided in one location that is made as comfortable, private, and safe for these children as possible. All children in the 120 counties in Kentucky are represented by one of the 15 CACs across the Commonwealth. Although many CACs are involved in cases of sexual abuse, there are also cases of physical abuse, neglect, and children who witness violence. Also, four of the 15 centers are considered dual centers, which means they serve other programs outside of the CAC.

Ms. Ruschell stated that Kentucky is not the only state with CACs, but there are over 820 CACs across the country. Also, every state has legislation that requires multiple agencies and communities to work together on cases of child abuse. Kentucky's CACs adhere to statutes and regulations placed upon them from the state, as well as the National Children's Alliance standards for accreditation.

State funding received by CACs is $3.4 million, which includes some tobacco funding and funds for retirement. CACs also received a slight increase in the last budget session, which Ms. Ruschell was thankful for. CACs are also non-profit organizations, which allows them to receive private donations. The total cost for all 15 centers is about $15 million annually.

In fiscal year 2017, 6674 new children were seen at CACs across the state. CACs conducted 5217 interviews, 887 medical examines, and provided 8788 mental health services. Ms. Ruschell stated that they saw a nine percent increase from the year before in unduplicated children, an eight percent increase in forensic interviews, a six percent increase in mental health, and a slight trend toward female victims. Ms. Ruschell attributed some of the growth to additional satellite centers that are being opened across the state. These satellites are currently located in Franklin County, Prestonsburg, Harlan, and Murray.

Ms. Ruschell discussed the CACs' program development. She stated that there has been expansions with the mental health programming, including the use of art and music therapy. CACs have started to use "coaching parents in real time", which allows a therapist to work with a parent on interacting with their child. There have also been improvements with responses to sub-populations.

Responding to a question from Senator Carroll, Ms. Ruschell stated that the Purchase Area Sexual Assault and Child Advocacy Center is the designated center in Paducah, Kentucky.

Responding to a question from Senator Webb, Ms. Ruschell stated that many of the satellite centers are located in space within other existing facilities which also helps with funding. The rest of the funding is raised by CACs.

Responding to a question from Representative Moser, Ms. Ruschell stated that part of their growth is from the new types of abuse cases that are coming in. Law enforcement officers and social workers are referring more cases to CACs.

Responding to a question from Representative Morgan, Mr. Stephens stated that while many child victims come from homes where drug abuse is involved, he is not qualified to say that drug abuse is abuse of a child.

Safe Act Update

Laura Sudkamp, Laboratory Director for Kentucky State Police (KSP), presented a Safe Act testified.

The Sexual Assault Forensic Evidence Act, also known as the Safe Act, addresses the sexual assault kit back log and attempts to prevent a future backlog from taking place. The requirements of the Safe Act that are associated with the laboratory include:

Kits to be turned into the lab within 30 days;

Kits to be completed within an average of 90 days by 07/01/2018;

Kits to be completed within an average of 60 days by 07/01/2020;

Rules on Evidence Retention; and

$4,500,000 in fiscal year 2015-2016 shall be transferred to the KSP to support statewide law enforcement purposes, including funding to reduce the DNA backlog at KSP Forensic Laboratories.

KSP's laboratory has created an online kit tracking system and each kit is stickered in order to make sure everyone involved complies with KRS 524.140. Of all the kits in the system, Ms. Sudkamp stated that most kits are submitted within 30 days. Not all hospitals have access to the tracking system but KSP laboratory is rolling it out to everyone as quickly as possible. Along with the tracking system, KSP's laboratory is educating hospitals and law enforcement when possible.

The DANY Grant, a grant awarded to KSP's laboratory from the District Attorney of New York, has proven extremely useful so far. The outsourcing results are as follows:

Kits sent for testing – 3173;

KSP reviewed kits – 1129;

Profiles added to CODIS – 356;

Number of current hits – 150.

KSP laboratory worked with the Attorney General's office on a grant where KSP received additional funding to test "boomerang" kits. Ms. Sudkamp explained that boomerang kits are kits that at some point came to the laboratory, were sent back without being tested, and are now returning to the lab to be retested

Ms. Sudkamp discussed DNA expansion. Currently, the laboratory is getting outpaced in forensic biology assignments. There were 46,000 cases in 2016, and there have already been more cases this year than last. Ms. Sudkamp stated that it is taking the lab over a year to complete DNA analysis. The slow turnaround from the loss of employees is due to the low salaries of laboratory technicians. KSP hopes the turnaround time shortens in the near future.

With some of the $4,500,000 KSP's laboratory received, renovations were made to the lab. Space was increased, which included the evidence intake area. Money was also spent on new equipment. These changes allowed for an increase in productivity so that the kits can be completed.

Ten forensic biologists were hired, seven remain on staff and should be finished with their training by the end of December. Training for the forensic biologists was contracted out in order to keep all the current analysts working. The laboratory also hired three evidence technicians and two laboratory technicians. Ms. Sudkamp stated that they hope they will be able to keep the remaining new employees and not lose them to other laboratories. She stated that once all the new employees begin working she believes the laboratory DNA turnaround time will drop.

Responding to a question from Representative Blanton, Ms. Sudkamp stated that KSP's laboratory is the only public crime laboratory in Kentucky and they service every law enforcement agency across the state for no charge. KSP's laboratory gets about 45,000 to 46,000 cases every year.

Responding to a question from Senator Carroll, Ms. Sudkamp stated that if KSP laboratory is invited to speak at a college fair or career day, they will go and try to speak with new recruits.

Responding to a question from Representative Cantrell, Ms. Sudkamp stated that KSP's laboratory has a starting salary of $32,000, and many times the low starting salary is the reason the laboratory has a difficult time retaining employees.

"I Am Evidence" Documentary

Michelle Kuiper, a victim advocate, told the emotional story of how she and many others have been sexually assaulted. Ms. Kuiper then showed a 20 minute clip from an HBO documentary called "I Am Evidence." The documentary is about sexual assault in America. Ms. Kuiper asked the committee to view the complete documentary.

Responding to a comment from Senator Carroll, Ms. Kuiper stated that statistics show that only two to ten percent of sexual assault allegations are false. She also spoke in favor of trauma based-training for law enforcement, victim advocates, nurses, and doctors.

Responding to a comment from Representative Cantrell, Ms. Kuiper stated that she believes there are myths that surround sexual assault and that they need to be broken, which is why research and training is important.

There being no further business, the meeting was adjourned at 12:03 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Justice and Judiciary

Minutes of the 2nd Meeting of the 2017 Interim

October 26, 2017

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 26, 2017, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jason Nemes, Co-Chair; Senators Ray S. Jones II, John Schickel, and Robin L. Webb; Representatives John Blanton, Joseph M. Fischer, Stan Lee, Jason Petrie, Phillip Pratt, Brandon Reed, and Kevin Sinnette.

Guests: Rick Sanders, Commissioner, Kentucky State Police; Chad White, Lieutenant Colonel, Administrative Division, Kentucky State Police; Carole Henderson, Budget Director, Administration Office of the Courts (AOC); and Paul Harnice, Attorney, Stoll Keenon Ogden PLLC.

LRC Staff: Zachary Ireland, Savannah Wiley, and Jennifer Beeler.

Kentucky State Police Budget Update

Commissioner Sanders provided a brief update on the budget of the Kentucky State Police (KSP).

In response to questions from Rep. Blanton, Commissioner Sanders stated that there are between 35 and 40 Trooper Rs, who are retired troopers that have come back to work. Commissioner Sanders noted that at one point KSP was authorized 1,070 Troopers, but there are currently 848 troopers. Lt. Col. White stated that KSP is required to contribute $.91 to the state police retirement system for every $1 paid in salary.

In response to questions from Sen. Schickel, Commissioner Sanders noted that the Angel Initiative had not yet been implemented. Lt. Col. White noted that KSP does full 911 dispatching for 13 counties. Lt. Col. White noted that those counties pay a set annual amount to utilize KSP dispatch services. Commissioner Sanders confirmed that KSP's long-term plan is to integrate Commercial Vehicle Enforcement (CVE) officers into the Trooper ranks. Commissioner Sanders stated that KSP trains all cadets as Troopers, noting that eventually there won't be any more tan uniformed CVE officers.

In response to a question from Sen. Schroder, Commissioner Sanders noted that while there are different radio systems through the commonwealth, KSP is able to set them to the same frequency in order to communicate with other counties and departments.

In response to questions from Sen. Jones, Lt. Col. White stated that KSP has the budget to afford 890 to 900 Troopers. Commissioner Sanders stated that there were 200 to 300 applicants to the most recent KSP cadet class.

In response to a question from Rep. Reed, Lt. Col. White stated that KSP's budget for FY 2018 is $228 million. Commissioner Sanders stated that KSP's ideal budget would be $245 million per year.

In response to a question from Rep. Lee, Commissioner Sanders noted that cadet applicants go through a criminal background check. Commissioner Sanders stated that an applicant with a criminal history of marijuana possession would not be automatically disqualified. Commissioner Sanders stated that he believes KSP should have access to criminal records that have been expunged.

In response to a question from Rep. Blanton, Commissioner Sanders confirmed that many KSP posts around the state are in disrepair.

Kentucky Court of Justice

Ms. Henderson provided an overview of the Judicial Branch's internal funds transfers.

In response to a question from Chair Nemes, Ms. Henderson stated that the court facilities budget is roughly $108 million in Fiscal Year 2018. Ms. Henderson stated that the judicial branch is required by statute to continue paying four percent of original court house capital construction costs to the county after the debt is paid off. Ms. Henderson confirmed that the court facilities budget contains funds to pay for facility maintenance issues such as roof repairs or carpet replacements. Ms. Henderson stated that the judicial branch does not pay bailiffs, those salaries come directly from the finance cabinet. Ms. Henderson stated that $74 million of the $108 million facilities budget goes to bond payments for courthouse construction. Ms. Henderson stated that $30 million of that budget goes to counties. Ms. Henderson stated that the remaining $4 million goes toward emergency repairs, utility bills, and private sector leases.

In response to questions from Rep. Blanton, Ms. Henderson stated that the facility budget is appropriated by the general assembly. Ms. Henderson stated that the judicial branch leased to purchase AOC's office building and was able to pay off the building early with carryforward funds in fiscal year 2014, saving $750 thousand. Ms. Henderson stated that the total cost of the building was roughly $12.5 million. Ms. Henderson stated that in 2008 the court operations budget was in a $30 million deficit.

In response to a question from Sen Schroder, Ms. Henderson stated that the lease on the court of appeals building is $212,500 per year. Ms. Henderson stated that the AOC has used that building since 1990 or 1991.

In response to questions from Chair Nemes, Ms. Henderson stated that in fiscal year 2024 the bond payments will reduce from $74 million to about $65 million due to debt being paid off. Mr. Harnice stated that it would be inappropriate for AOC to make public comments on pending litigation. Mr. Harnice stated that AOC vehemently disputes all of Scott Brown's claims, including that he is a whistle blower.

There being no further business before the subcommittee, the meeting was adjourned at 11:34 AM.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 5th Meeting of the 2017 Interim

October 25, 2017

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on State Government was held on Wednesday, October 25, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives Jerry T. Miller, Co-Chair, and Kenny Imes, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Dorsey Ridley, and Albert Robinson; Representatives Lynn Bechler, Kevin Bratcher, Tom Burch, John Carney, Will Coursey, Joseph Fischer, Derrick Graham, Dennis Horlander, Dan Johnson, DJ Johnson, Mary Lou Marzian, Reginald Meeks, Phil Moffett, C. Wesley Morgan, Jason Nemes, Sannie Overly, Jason Petrie, Rick Rand, Jody Richards, Bart Rowland, Tommy Turner, Ken Upchurch, Jim Wayne, and Scott Wells.

Guests: Thomas Stephens and Jenny Goins, Personnel Cabinet; John Steffen and Emily Dennis, Registry of Election Finance.

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

Approval of Minutes

A motion to approve the minutes of the September 27 meeting was seconded and passed without objection.

2018 Kentucky Employees' Health Plan

Thomas Stephens, Secretary of the Personnel Cabinet, and Jenny Goins, Commissioner of the cabinet's Department of Employee Insurance, discussed the Kentucky Employee's Health Plan (KEHP) and highlights of the 2018 plan year.

They said that KEHP is the largest self-funded health insurance plan in the state. School boards comprise 54 percent of the membership, early retirees 20 percent, state agencies 20 percent, and quasi-governmental agencies 6 percent. KEHP became self-funded in 2006. Annual amount spent is approximately $1.7 billion, with 296,000 covered lives.

In 2017, KEHP received the "health champion" designation from the American Diabetes Association. The State Wellness Director is Twany Beckham—formerly on the 2012 University of Kentucky NCAA championship team—has worked with the statewide wellness champions. They now number more than 140. There is an increased focus on engagement and outreach. First quarter data for 2017 shows that

10 or more public schools have reached silver status, which means each member averaged 4,000 points in the Go365 LivingWell initiative. About five schools and two state agencies—including the Personnel Cabinet—have reached platinum level.

In the LivingWell plans, there was 94 percent completion of the LivingWell Promise in 2017, which allows members a premium discount in plan year 2018. Since the Go365 (formerly named Humana Vitality) health initiative was started in 2012, there has been a 702 percent increase in wellness activities. The "wellness age" of members in the LivingWell plans who completed a health assessment or biometric screening has been reduced by a half year.

The LiveHealth Online Medical benefit is free to members and has saved KEHP approximately $1.9 million. It provides access to a physician 24 hours a day, seven days a week. The benefit, which is intended for general care, has been used by 9,545 persons. LiveHealth Online Psychology was added in 2017 and has been used by 475 persons. Vitals SmartShopper is another cost-saving program, in which members shop for cost-effective health care services and earn cash rewards. Nine percent of households use this benefit.

The Diabetes Value Benefit, which started in 2016, provides diabetic medications and supplies at low or no cost. Although pharmacy costs increased 13.9 percent, KEHP costs stayed flat for those members because medical cost decreased seven percent. The number of scripts per patient decreased 3.5 percent. There has also been 10.3 percent less emergency room utilization and 6.5 percent fewer hospital acute admissions. KEHP has been working with the states of Georgia, Tennessee, North Carolina, and Oklahoma regarding diabetes prevention. Program successes will also be discussed with the Chamber of Commerce in Louisville next week.

As part of engagement and outreach to explain programs and benefits, KEHP has committed to a "feet on the street" approach to meet with people where they are. Programs need to be marketed to consumers and users in ways other than direct mail.

In 2016 and 2017, the trend increase for medical and pharmacy costs was seven percent. In an effort to ensure good benefits and lower costs, in 2015 KEHP changed vendors. Anthem became the third party administrator, CVS/Caremark the pharmacy benefits manager, and WageWorks the FSA/HRA administrator. Go365 stayed as wellness program administrator, and Vitals SmartShopper remained as transparency vendor. Through the new contracts, KEHP was able to achieve a 11 percent negative cost trend in 2015. Since then the trend has increased somewhat, which is typical. The allowed pharmacy and medical costs per member per month is now $486, which is $5 more than in 2014. Medical care costs tend to increase, but KEHP is continuing to look at ways to lower cost—for example, through LiveHealth Online, the diabetes value benefit, and the wellness program.

The total allowed cost per member per year for KEHP is 6.8 percent higher than in the public sector and 3 percent higher than in the private sector. Based on claims data, KEHP has more members with chronic or crisis conditions than the benchmark. The goal is to transition them from at risk status to a condition that is more sustainable.

For plan year 2018, the employer cost increase was 1 percent, and the cost increase for employees was 3 percent. The LivingWell PPO couple and family coverage had the highest premium increase. The premium for single coverage in the Standard CDHP plan increased from $13.10 to $26.20 per month. KEHP considers the rates good when compared to surrounding states. The last rate increase was in 2014, except for a 1 percent increase last year in the two standard plans. For 2018, no changes were made to deductibles, co-insurance, or co-payments. The healthcare FSA maximum annual contribution increased to $2,600. The HRA maximum carryover is $7,500, and the cabinet has been communicating with members who are approaching their maximum. The number of members affected by the carryover maximum is low.

As of October 23, enrollment in the LivingWell CDHP plan is 55 percent, LivingWell PPO 35 percent, Standard CDHP 7 percent, and Standard PPO 3 percent. These numbers will change daily until open enrollment finalizes in December and do not include all retirees. Enrollment in the Flexible Spending Account (FSA) Healthcare benefit increased 9 percent from last year; enrollment in the Dependent Care FSA benefit increased 13 percent.

KEHP has issued a Request for Proposal (RFP) for a dependent eligibility audit. The RFP closes November 9. The last audit was completed in 2010 and resulted in a savings of about $5 million when dependents no longer eligible were removed from the plan. This type of audit should be done every 5-7 years.

Two new employee voluntary life insurance plans have been added in 2018, along with three new dependent life insurance plan options. All life insurance plans have lower monthly premiums. During open enrollment, so far there have been more than 15,000 life insurance additions or changes.

The Cabinet has combined some staff operations that resulted in a cost saving. Part of that money will be used to decrease premiums for optional coverage. The Department of Employee Insurance has 47 staff members, but its operating costs amount to less than .63 percent of the overall $1.7 billion health plan budget.

Concluding the presentation, Secretary Stephens complimented Commissioner Goins and her staff and thanked them for their contribution to a well-run operation.

Responding to an inquiry from Representative Miller, Commissioner Goins explained how members earn cash rewards through the Vitals SmartShopper program. KEHP saves money through the program and has also given back $1.5 million to members as rewards since the program went into effect in 2013.

In response to Representative Carney, Commissioner Goins said that KEHP pays $49 for each call to LiveHealth Online Medical and about $80 per visit to LiveHealth Online Psychology. Both services are free to members. Representative Carney said he learned about LiveHealth Online from a colleague at the school where he worked. He suggested that it might be beneficial for schools to have on-site coordinators to promote interest in the program. Commissioner Goins agreed and said that state wellness director Twany Beckham is working with schools as part of the Go365 LivingWell initiative.

Responding to questions from Representative Bechler, Commissioner Goins explained how to use Vitals SmartShopper for an MRI procedure when an x-ray is required beforehand. She said she would double-check on this question and reply back to him. She also explained the grievance process and procedures to follow for those who miss the open enrollment deadline or want to change plan selection subsequent to enrollment. She said that KEHP will make things right for people as much as possible, as long as IRS rules are complied with.

Representative Graham asked for clarification of what happens to excess funds in health reimbursement accounts when the carryover balance exceeds the $7,500 cap. Commissioner Goins said it is employer money. For the Waiver General Purpose HRA or the Waiver Dental/Vision HRA, the excess goes back into the trust fund.

Senator Alvarado asked what has led to higher premium costs in 2018. Commissioner Goins said that the amount of chronic conditions has changed little since about 2002. After KEHP experienced a negative cost trend in 2015, medical and pharmacy costs increased in 2016, and usage has also increased. Anthem, which became the TPA in 2015, has a large network of providers, and people are becoming more comfortable about seeing their doctors.

There were no further questions. Representative Miller thanked Secretary Stephens and Commissioner Goins for their presentation and their assistance to the Committee.

Registry of Election Finance – Status Report and Priorities for the 2018 Legislative Session

Guest speakers from the Registry of Election Finance were John Steffen, Executive Director, and Emily Dennis, General Counsel. Mr. Steffen said that since the 2017 enactment of Senate Bill 75, relating to campaign finance, the Registry has been in the process of updating its website, reporting forms, guidebooks, and informational and training materials. The forms and their online presentation are being remodeled to make them clearer to users. With funds budgeted to improve the "IT" system, Kentucky Interactive LLC was contracted to do the work. The Registry thinks it now has a more reliable and secure system. The main focus is to upgrade and improve the operation going forward.

Ms. Dennis said the Registry is defending a federal lawsuit. The case involves challenges to various aspects of Kentucky's campaign finance laws, as well as challenges to the Legislative Code of Ethics. In June, the court issued a Memorandum Opinion and Order that found all of the claims of the plaintiffs against the Registry moot except for one claim that involved the constitutionality of caucus campaign committees. The court's order upheld the contribution limit of caucus campaign committees as defined in the statute but invalidated the definition of "caucus campaign committee" as violative of the Equal Protection Clause [of the Fourteenth Amendment to the United States Constitution]. The Registry believes that the court applied an incorrect standard of review and made a clearly erroneous finding of fact. In addition, the Registry thinks that the court's action may not have been authorized, because the plaintiff's complaint did not specifically challenge the definition of caucus campaign committee. The complaint was never amended to challenge the constitutionality of that provision. For this reason, the Registry has filed a motion to reconsider and amend the order and to stay enforcement of the order. While confident that the order should be amended, the Registry is also arguing that a stay is appropriate in order to give the legislature the opportunity to remedy the issue by amending the statute. The definition as it is currently written includes the words "Republican" and "Democrat," and because it includes those words the court found that the legislature was giving deference to those political parties and, in so doing, was violating the Equal Protection Clause. The change that needs to be made to the definition is a simple one, and it is important to resolve the matter. Mr. Steffen and Ms. Dennis asked that the legislature consider making this a priority in the 2018 legislative session.

Ms. Dennis went on to say that she has made a good faith argument that the definition is constitutional as written. By alerting the State Government Committee today regarding the federal lawsuit, the Registry is in no way waiving that argument, because the caucus campaign committees as they are presently constituted do emanate from the rules of the House and the Senate. The Registry was able to find that Republican caucus groups had given to Independent candidates in the past. Caucus groups are not in any way bound to give to members of a certain political party, so this is not a concession that the provision is unconstitutional. The Registry does, though, see why there is reason for concern. She said she would be happy to provide copies of the order and the arguments she has made to amend the order. Representative Imes thanked Ms. Dennis for the explanation and said that clearing up ambiguity about the definition should be a relatively easy fix.

When Representative Miller asked about the software packages used by candidates, Mr. Steffen said the systems are cumbersome and difficult to use. It is his goal to replace those and for the Registry, rather than an outside party, to ultimately be the provider.

When asked by Representative Imes, Mr. Steffen reviewed the changes made by Senate Bill 75 to primary and regular election filing deadlines. They agreed that the filing deadline for the annual report probably should be December 31 and that it would not be unreasonable to make the candidate's 60-day post report serve as the annual report due on December 31.

In response to a question from Representative Imes, Mr. Steffen said that with the changes in Senate Bill 75, the 15-day pre-election report must now be received by the Registry 15 days before the election, when it only had to be postmarked 15 days before the election prior to the 2017 changes. This eases earlier concerns about having the reports available for public review in a timely manner.

Representative Moffett said he hopes the new "IT" system will include a function for importing from a candidate's bank account. Mr. Steffen said he cannot answer that definitely today but that a phone app will be created for that purpose. The system will be much more mobile than before.

Senator Ridley asked whether the court decision changed the function of the caucuses of each chamber and party. Ms. Dennis said there has been no immediate change because the motion to amend is still pending, but that is part of the problem. The court's order, by determining the definition to be unconstitutional, makes it void in the statute because caucus campaign committee is not defined elsewhere. The plaintiff offered two alternative arguments of what caucus campaign committees could do. The way the order is written, not even the plaintiffs know what it means.

When asked by Senator Ridley, Mr. Steffen confirmed that KREF Form 001 (Appointment of Campaign Treasurer) is available and was revised to eliminate the $1,000 checkmark.

Senator Ridley questioned whether a candidate for office is permitted to open a bank account, requiring money to be deposited, before the Registry gives a campaign number to the letter of intent to file for office. He said this should be explained in writing to potential candidates. Mr. Steffen acknowledged that money must be paid to the bank to open an account and said that the Registry will not "nitpick." He added that they have recently worked on language in the handbook to help address that question.

Senator Ridley asked whether the Registry is going to send notification to candidates in a primary regarding report filing prior to the date the report is due. Mr. Steffen stated that the Registry's new system should be able to send out reliable reminders electronically for most reports, perhaps even the annual report. He stated that the Registry would be sending out reminder cards in about two weeks.

Representative Graham said that, in advance of a potential special session to address underfunding of the pension systems, he hopes the interim State Government Committee will have a meeting for the purpose of discussing and debating the recent proposals. Representative Miller said he would pass along Representative Graham's comments and that he believes there are plans to hold a hearing at some point, perhaps in a special meeting of the Public Pension Oversight Board.

Representative Miller thanked the speakers from the Registry. With business concluded, the meeting was adjourned at 2:32 p.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 5th Meeting of the 2017 Interim

October 25, 2017

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on Local Government was held on Wednesday, October 25, 2017, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Rob Rothenburger, Vice-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Rob Rothenburger, Vice-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Danny Bentley, George Brown Jr, Ken Fleming, Toby Herald, DJ Johnson, Kim King, Adam Koenig, Stan Lee, Jerry T. Miller, Robby Mills, Phil Moffett, Steve Riggs, Arnold Simpson, John Sims Jr, and Kevin Sinnette.

Guests: Edwin King, Jeremy Ratliff, and Lisa Beran, Kentucky Housing Corporation; Deborah Bilitski and Laura Grabowski, Develop Louisville; Latondra Yates and Mary McGuire, Louisville Vacant and Public Property Administration; Tammy Vernon, Darren Sammons, Greg Ladd, and Travis Weber, Department for Local Government; Michael Kurtsinger and Chuck Bonta, Kentucky Fire Commission; and Sara Massey, Louisville Metro Government.

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

Approval of Minutes

Upon the motion of Senator Thayer, seconded by Representative Johnson, the minutes of the September 27, 2017 meeting were approved.

Vacant, Blighted, and Abandoned Properties

Mr. Edwin King, Executive Director and CEO of the Kentucky Housing Corporation (KHC), gave the committee background information about KHC and its function. Since 1972, KHC has been Kentucky's state housing finance agency. KHC is a self-supporting, quasi-governmental agency that invests in affordable housing solutions for Kentucky. KHC receives no state general funds. Corporate expenses are paid through income from the tax-exempt mortgage bond program and fee income from the U.S. Department of Housing and Urban Development (HUD).

KHC offers programs to create, preserve, and sustain affordable housing through many means including the single family mortgage program and multi-family tax credit programs.

KHC has developed investment projects through community revitalization programs, one being Recovery Kentucky, a vital program created to help Kentuckians recover from substance abuse, which often leads to chronic homelessness. In a joint effort with the Department for Local Government (DLG) and the Department of Corrections (DOC), KHC allocated low income housing tax credits and other resources for the construction of 14 Recovery Kentucky Centers. Operational funding included approximately $3 million from DLG's Community Development Block Grant program and approximately $5 million from DOC.

Programs which KHC supports provide economic impacts for Kentucky. Some of these include: the Men's Addition Recovery Campus in Bowling Green, for a total economic impact of $11 million; Scholar Houses in Lexington, Louisville, Bowling Green, Paducah, Owensboro, Pikeville, Newport, and Richmond; and the Lincoln Grant Scholar House in Covington, which just opened, for a total economic impact of $13 million.

Ms. Lisa Beran, Deputy Executive Director of KHC's Housing Production and Programs, discussed KHC's revitalization projects in the City of Somerset, in conjunction with DLG, for a total economic impact of $719,000; Robertson Apartments in Washington County, for a total economic impact of $1.4 million; and Maple Lick and Milltown Subdivisions in Owsley County, for a total economic impact of $655,000.

In response to a question from Representative Miller, Mr. King said that KHC does partner with the Family Scholar House in Louisville. Mr. Jeremy Ratliff, KHC's General Counsel, added that Louisville partners with KHC including the Riverport Scholar House. Ms. Beran noted that KHC does provide some funding for The Healing Place from money provided by the U.S. Department of Housing and Urban Development (HUD).

In response to a question from Representative Bentley, Mr. Travis Weber, with DLG, said that mayors are educated on how to get funds for the revitalization of slums and blighted areas, and the options that are available.

In response to a question from Representative Rothenburger, Mr. King said people can stay in the Scholar Houses until they finish their education as long as they continue to meet the program requirements. In response to another comment from Representative Rothenburger, Mr. King noted that senior housing is going to be a large component of housing in the immediate future.

Ms. Laura Grabowski, Director of Vacant and Public Properties with Develop Louisville, discussed the Louisville/Jefferson County Landbank Authority. The Authority was established in 1989 and is a partnership between the Commonwealth of Kentucky, Jefferson County Public Schools, and Louisville Metro Government. The purpose of the Authority is to return vacant and abandoned properties to productive use and place them back on the tax rolls. Acquisition of vacant and abandoned properties is through voluntary donations and foreclosures. Disposition is to residents, non-profits, developers, and others. More than 300 properties have been converted to productive use since 1996.

The Authority's recent legislative changes include: (1) elevating Louisville Metro lien priority allowing Louisville Metro to initiate foreclosure program. Since 2012, 563 foreclosures have been initiated, with 366 completed; (2) reducing processing time for foreclosures. The average time to complete foreclosure was cut from 24 to 12 months; (3) making condemnation of blighted properties more financially feasible; (4) prohibiting the sale of delinquent tax certificates to third-party purchasers in designated areas through the use of the Tax Delinquency Diversion Program; and (5) providing a funding mechanism by directing 50 percent of tax proceeds from sales to the landbank for five years.

The Authority's new Disposition Programs include "Last Look," "Cut It Keep It," and "Flex Rate Policy."

The Vacant and Public Property Administration's targeted approach includes targeting efforts in support of neighborhood redevelopment efforts, layering resources, and measuring results of strategies to optimize the outcomes of vacant and abandoned property solutions.

Regarding the Clear Boarding Pilot Project, Polycarbonate sheets are used instead of plywood for boarding up vacant and abandoned structures. A portion of the funds is for a targeted neighborhood and the remainder will be used Louisville Metro-wide. The timeline is November, 2017 through February, 2018.

In response to a question from Senator Seum, Ms. Grabowski said that the involvement of Jefferson County Public Schools with the abandoned property issue is that the schools use tax revenue for funding. Abandoned property lowers the tax base and the school district's resultant income.

In response to another question from Senator Seum, Ms. Grabowski stated that the vacant property, when the owner cannot be located, will go through the foreclosure process and the new owner will get a clear title in the event of outstanding property taxes.

In response to a question from Representative Brown, Ms. Grabowski said that clear boarding is more expensive initially, around $800 to $1,000 per house depending upon the use of the clear boarding, but it is more cost effective as plywood is often removed by persons seeking entry into the property. Representative Brown commented that clear boarding should be considered to be implemented statewide.

Representative Riggs commented that it is very rewarding to see legislative changes that are making improvements. In response to a question from Representative Riggs, Ms. Bilitski, Director of Develop Louisville, stated that she does not anticipate coming before the legislature during the next session of the General Assembly with changes relative to the vacant and abandoned property issue.

In response to a question from Representative Miller, Ms. Grabowski said the agency has a great relationship with non-profits, and the non-profits have to apply for vacant lots and come to the Authority with a plan and a budget, but seem to do so very easily.

In response to a question from Representative Rothenburger, Ms. Grabowski said the Tax Delinquency Diversion Program is enacted by local ordinance, and Ms. Bilitski stated that the enabling legislation is applicable statewide, but that she would confirm that applicability.

In response to a question from Representative Bentley, Ms. Grabowski said the Last Look program has a time limit of 60 days.

Special Purpose Government Entity Compliance Reports

Ms. Tammy Vernon, Cities and Special Districts Branch Manager with DLG, said that Special Purpose Governmental Entities (SPGEs) are independent, political subdivisions of the state, government entities that exercise less than statewide jurisdiction, and are organized for the purpose of performing specific services within limited boundaries. DLG will continue to monitor the requirements under KRS Chapter 65A that SPGEs register and submit certain financials online. The Cities and Special Districts Branch developed and implemented manual processes to assist SPGE compliance. Moving forward, DLG plans to transition to a new automated system for SPGEs.

DLG's responsibility per KRS Chapter 65A is to create and maintain an online central registry, reporting portal, and public access portal, and to monitor compliance by tracking status changes, preparing statutorily required reports, and activating noncompliance procedures.

The SPGE compliance report submitted to LRC includes data as of October 12, 2017. The compliance percentages will increase as the deadline approaches. There are approximately 7,600 individual records, four records for each SPGE, and compliance is by fiscal year. The compliance report percentage for FY 2015 is 99%; 97% for FY 2016; 94% for FY 2017; and 93% for FY 2018.

The SPGE program for the future includes active communication with the Commonwealth Office of Technology to design software to allow the creation of a new SPGE report portal and central registry, and public portal for citizens to view current and historical submissions, and automating existing manual processes such as compliance administration, reporting and notifications, fire departments exiting and entering the system, and municipal utilities buying and selling components. DLG also plans to provide online tutorials for submitting and reviewing data, and continued annual SPGE training for financial disclosure and tax rate calculation, to be held at area development districts.

Senator Alvarado commented that the definition of a SPGE does not mention the ability to tax citizens. Mr. Darren Sammons, DLG staff attorney, stated that the definition is taken from the statute and the one DLG crafted is a rough definition.

In response to a question from Senator Alvarado, Mr. Sammons said the SPGE board members are not elected.

In response to another question from Senator Alvarado, Mr. Sammons said that HB 1, which passed during the 2013 legislative session, provided for more accountability.

Senator Alvarado commented that he will file a bill for the 2018 session of the General Assembly to give taxing veto power to the elected local government officials.

In response to a question from Senator Seum, Mr. Sammons said that all of the SPGEs have a statutory taxing limit.

Senator Seum requested that DLG provide a list of all of the taxing districts to committee members.

Senator Thayer commented that the elected governing body having oversight over the SPGE should have some controls over SPGE tax increases or budgets, or that SPGE board members should be elected instead of being appointed. There may be other ideas, too. There should yet be more accountability and disclosure.

In response to a question from Representative Moffett, Mr. Sammons said in 2012, over $2.7 billion was received by the special districts from local funds and that 2,000 statutes would have to be researched in order to determine whether or not the SPGEs are authorized to use federal funds.

Representative Miller commented that the election date for the fire commission should be moved from June.

Representative Riggs commented that HB 1 was a great step forward in improving transparency. More accountability should yet be pursued.

Mr. Michael Kurtsinger, Legislative Director for the Kentucky Fire Commission, said that, as of October 17, there were 427 Chapter 273 volunteer fire departments with revenues or expenditures under $100,000 required to report to the commission. Fifty-four were non-compliant in submitting their SPGE reports, 47 were compliant, and 33 of the 47 were trying to get their numbers in. The total revenue received was $16,566,000, which was an average total per department of $44,000. The commission makes great efforts in trying to contact the fire departments for the information.

Mr. Chuck Bonta, auditor with the Kentucky Fire Commission, exhibited and explained the forms the commission uses to collect the fire department fiscal and demographic data.

In response to a question from Representative Sims, Mr. Kurtsinger said there were 427 Chapter 273 volunteer fire departments with revenues of $100,000 or less, but close to 830 volunteer fire departments in total.

There being no further questions, the meeting was adjourned at 11:15 a.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

2017 Interim

October 12, 2017

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, October 12, 2017, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order and led the audience in the Pledge of Allegiance. A moment of silence was observed for the death of former Senate President Pro Tem Dick Roeding and the victims of the Las Vegas shooting. The secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Tom Buford, Dan "Malano" Seum, Reginald Thomas, Stephen West, and Whitney Westerfield; Representatives Chris Fugate, Brian Linder, Ruth Ann Palumbo, Rob Rothenburger, Arnold Simpson, and Walker Thomas.

Guests: Andy Beshear, Attorney General, J. Michael Brown, Deputy Attorney General, and Holly McCoy-Johnson, Administrative Services, Office of the Attorney General; and John Roach, Ransdell Roach & Royce.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall, Colleen Kennedy, Van Knowles, Jean Ann Myatt, William Spears, Shane Stevens, Joel Thomas; and Kate Talley, Committee Assistant.

Minutes for September 14, 2017

Upon motion by Representative Thomas and second by Representative Fugate, the minutes for September 14, 2017, were approved by voice vote.

Presentation on Potential Legal Action Against Drug Industry for Contributing to Opioid Abuse in Kentucky; Purdue Pharma Settlement

General Beshear said the opioid epidemic is the largest challenge the state has ever faced. In the audience are parents from the North Kentucky Hates Heroin organization. There are more grandparents raising children than ever in the state's history. Since 2000, deaths have increased 570 percent. Since 2009, the overdose rate has doubled. Heroin is one of the scariest drugs, but fentanyl is 30 to 50 times more powerful than heroin. Carfentanil is 10,000 times more powerful than morphine. New analogs of these drugs appear weekly.

Through the DEA [US Drug Enforcement Administration] Task Force, more than 114 overdoses were connected to one bad batch of fentanyl. It started in Huntington, WV, moved to Cincinnati to Indiana to Mount Sterling, and ultimately into Louisville. Staff of the Attorney General's Office, working with the federal government, were able to make a high-level arrest primarily because of the number of overdoses in Mount Sterling, the largest single-day number of overdoses in the state.

The opioid epidemic also affects economic development. Many businesses cannot find healthy workers to employ. He said that a recent personal experience made a big impression. Four weeks ago, while sitting at a red light at a downtown Lexington intersection at 4:00 PM, Attorney General Beshear and a staff member responded to an overdose. The passenger of the car next to them overdosed on carfentanil. They performed CPR until a police officer arrived with Narcan. It took four doses of Narcan to revive the individual.

The Attorney General's Office is taking a comprehensive approach to the opioid epidemic. First, there are three units in the law enforcement category that fight this epidemic every day. The Attorney General's Office has two investigators on the DEA Task Force, which chases the worst fentanyl and carfentanil dealers. The Appalachian High Intensity Drug Trafficking Area Task Force is dedicated to making sure rogue doctors and clinics are not flooding communities with prescription pills illegally. They perform investigations that go to the US Attorney's Office and Kentucky's Medicaid Fraud Unit. There have been several prosecutions of individuals who have broken the law for profit. Recently, the first set of search warrants was served on a string of rogue Suboxone clinics. Legislation is needed to address these clinics, much like the legislation that was enacted on pill mills.

Second, prevention is key to addressing the opioid epidemic. There are a number of counties in which a staggering number of opioids are prescribed, for example, Perry County (202 opioid pills per resident) and Crittenden County (145 opioid pills per resident). This epidemic is driven by prescription medications. Currently, 80 percent of people using heroin became addicted through prescription pills. Of those addicts, 70 percent acquired prescription pills from a family member or a friend, not a doctor. In August, the Attorney General's Office launched the Kentucky Opioid Disposal Program, a pilot project to clean out home medicine cabinets. Currently, there are over 50,000 drug deactivation pouches that can eliminate over 2.24 million opioid pills. This is the first program that allows people to safely dispose of medication in their own homes. Each pouch can deactivate 45 pills and is environmentally friendly. The Attorney General's Office has teamed with West Virginia Attorney General Morrisey to pressure national and state insurers to prioritize non-opioid alternatives to dealing with pain. The Attorney General from Ohio and Attorneys General Morrisey and Beshear are holding faith-based drug forums.

Third, treatment and recovery are needed to address the opioid epidemic. Along with 38 other state attorneys general, Attorney General Beshear is calling for Congress to pass the Road to Recovery Act, which will help open new avenues for addiction treatment while maintaining appropriate restrictions on mental health facilities. The Attorney General's Office is also asking the national government not to cut funding for addiction treatment. Over $8 million has been provided to drug treatment centers from the appropriation of the $24 million OxyContin settlement. Freedom House, Hope in the Mountains, and Mary Hurst are organizations that have benefited from the settlement. The only other state to have a similar settlement was West Virginia in 2004 for $10 million. In 2007, the United States settled with a fine of $634 million, which went to Medicaid, of which Kentucky received $500,000. Canada also recently settled a case against Purdue Pharma totaling up to $20 million.

Attorneys general across the US are beginning to file lawsuits against opioid manufacturers, national wholesalers, and distributors. Over 23 Kentucky counties have filed lawsuits. An RFP was issued to aid the Attorney General's Office in handling the lawsuits. The RFP asked for extensive experience, background knowledge, speed, and keeping costs within the parameters of HB 281. A team of two merit and two non-merit employees scored the RFP bidders. The RFP was awarded to a team of law firms including Joseph Rice of Motley Rice, Mark Lanier of The Lanier Law Firm, James Young of Morgan & Morgan, and John Roach of Ransdell Roach & Royce.

Justice Roach said that he was shocked by the statistic that 80 percent of heroin addicts began with opioids pills. The opioid epidemic is not a partisan issue. Mark Lanier is considered the premier trial lawyer and has gotten over three $1 billion verdicts. Linda Singer, who works for Motley Rice, is the former attorney general for the District of Columbia. She is leading the efforts in the opioid litigation for Alaska and New Hampshire. Joe Rice and his partner were the leaders in the tobacco master settlement agreement. Our team has people that have been part of the biggest pieces of litigation in American history.

Attorney General Beshear said it is important that we move quickly. Based on statistics from 2000, four people die of overdoses each day. It has been 21 days since the Office of the Attorney General submitted the contract to the Finance and Administration Cabinet (FAC) for approval. That period of time represents 84 overdoses. As attorney general, he has not restricted settlement funding. He will be encouraging the General Assembly that money that has caused addiction should be used to get us out of addiction, such as treatment, law enforcement, and education, but the Attorney General's Office will not restrict appropriations from any funds received from these cases.

Representative Palumbo thanked Attorney General Beshear for his work on this issue. The $24 million received is incredible given that Canada received $20 million. She thanked Justice Roach for the work that he will be doing.

Attorney General Beshear said that $9 million from that settlement remains to be appropriated by the General Assembly over the next three budget sessions.

Representative Fugate said that he served 20 years with the Kentucky State Police, including the last 9 1/2 years as part of a task force that did drug investigations. He has had direct experience with the opioid epidemic and has seen lives destroyed because of some doctors who only care about money. He has also seen this become a political issue.

In response to a question from Representative Fugate, Attorney General Beshear said that Deterra makes the deactivation pouches. He learned about these from the attorney general of Pennsylvania, where the pouches are distributed through pharmacies.

Representative Fugate asked whether any settlement funding goes to faith-based rehabilitation facilities. Attorney General Beshear said that a number of facilities use a faith-based approach, including Hope in the Mountains. Freedom House uses a portion of its funding for a faith-based approach. Most of the recipients have 12-step programs, which would include a faith-based component. The only thing the Attorney General's Office looked for in the programs it recommended to the General Assembly was effectiveness.

Senator Carroll thanked Attorney General Beshear for his testimony and said that we are all in agreement about the opioid epidemic. He has relevant experience, having served 24 years in law enforcement, including commanding a drug unit. Some of the things that we will get into today have nothing to do with that. There will be some difficult questions today that will be separate from this.

Senator Carroll asked why it was necessary to go outside the Attorney General's Office to pursue these cases. Attorney General Beshear said that the costs of staying in house, which could be in the millions of dollars, would require an additional appropriation. Funding for hiring more staff would be required. Private firms are handling this on contingency. They bear all the costs and take the risk. No tax dollars are going to the firms. The Attorney General's Office cannot afford to hire someone like Mark Lanier, who has secured more than three $1 billion verdicts. This gives Kentucky the chance to have attorneys with similar experience to the hundreds of attorneys that the drug companies will have.

Senator Carroll said that there have been questions about the contracts. The RFP was approved June 16. He asked whether the contracts have been approved by FAC. Attorney General Beshear said that it is an award when the top bidder is determined and the contract is signed. He is comfortable that the Attorney General's Office followed the proper policies and procedures of FAC. There has been no communication from the cabinet in the 21 days since submission. If something else is needed, he would be happy to comply. It has taken FAC so long that the contract will have to be resubmitted because the start work date has lapsed. He is willing to work with the cabinet to resolve this.

Senator Carroll asked whether it would have alleviated some of the problem if this had been submitted to FAC earlier. Attorney General Beshear said that this was done in the same way as every other RFP from the Attorney General's Office. The announcement and submission of the contract were the same.

Senator Carroll asked how there could be an announcement when the contract has not been approved by FAC. Attorney General Beshear replied that once the contract is awarded, you have to notify everyone and it becomes an open record. This is standard operating procedure for his office and, he believes, for others. FAC's authority is to make sure all documents are in order and all steps are followed. The actual contracting authority is with the Attorney General's Office.

Senator West thanked Attorney General Beshear and Justice Roach. He said that we can agree that this is a bipartisan issue. He asked what type of work has been done within the Attorney General's Office. Attorney General Beshear said that he would have to be careful in answering, to not give anything away. He can say that the Attorney General's Office has done significant research, identifying at least eight causes of action. He feels comfortable today, without extra assistance, suing at least one company. With extra assistance, there could be a better complaint that would allow cases to move faster from day one.

Senator West asked whether all the work will be on contingency. Attorney General Beshear said that it will be 100 percent contingency except for four attorneys from the Attorney General's Office, which will retain control of the litigation.

Senator West asked whether there is an agreed-upon percentage for the contingency. Attorney General Beshear said that there is a cascading fee structure from HB 281 based on the amount recovered.

Senator West asked what percentage the state of Kentucky can expect to receive and what attorney fees will be. Attorney General Beshear said that costs are paid first, then the contingency. There is also the cost of the Attorney General's Office staff working on this. Justice Roach said that for a $20 million recovery against one entity, the contingency is around 16 percent. Attorney General Beshear said that the specific contingency fee structure is 20 percent of first $10 million recovered, 15 percent for $10 million to $15 million, 10 percent for $15 million to $20 million, and 5 percent for more than $20 million.

Senator West asked whether hourly rates are included in the contingency. Attorney General Beshear said that there are no hourly rates, those costs ae included in contingency.

Senator Thomas said that the parameters in HB 281 for contingency fees are conservative compared to the market, which would typically be 33 to 40 percent. To get this quality of lawyers to commit to this is commendable. Average hourly rates for attorneys for Big Pharma are $1,000 per hour for partners, $750 for others.

In response to a question from Senator Thomas, Attorney General Beshear said that he did not know why there has been a delay of 21 days since contracts were submitted to FAC. He hopes there are legitimate reasons.

Senator Thomas said the delay is incomprehensible and immoral given the lives at stake.

Justice Roach said that some work cannot be done without a contract, but the team is already working.

Attorney General Beshear said that there were 17 bidders for these cases. Seven of the top 10 bidders refused to bid within the parameters of HB 281. He is especially concerned that this will be an issue with smaller cases for which outside counsel is needed.

Senator Thomas noted that he was not in favor of HB 281.

Senator Thomas said that one of the presentation slides showed high numbers of fentanyl deaths in Fayette and Jefferson Counties. He asked what are local officials saying about what can be done to address this. Attorney General Beshear said that multiple approaches are necessary. Law enforcement is focusing on fentanyl. Dealers are being prosecuted federally. Regarding prevention, most users do not go from a street-level drug to fentanyl and heroin, pills are a problem. Prescription pills in medicine cabinets are the driver of addiction.

Representative Simpson said that first major issue to be dealt with regarding settlement is to remediate damages caused by business practices through a cash settlement. The second issue is to alter the practice protocol of the industry. He asked whether there is any evidence that the latter has occurred. Attorney General Beshear said that two forms of recovery are being sought: monetary and injunctive, which is through a court order to change practices. We are starting to see change since lawsuits have been filed. CVS will no longer fill opioid prescriptions for longer than 7 days. Kentucky has already been more aggressive than that. He thinks that one of the wholesalers is going to do a Narcan program. Justice Roach said that what is different about this team compared to other states is that it is preparing cases to go to trial, not settlements.

In response to a question from Representative Simpson, Attorney General Beshear said that the attorney general's office will make the decision to settle or go to trial. He added that appropriation authority for any funding from verdicts or settlements will be with the General Assembly.

In response to a question from Representative Bechler, Attorney General Beshear said that deactivation pouches cost about $4 each if $200,000 worth are purchased. The Attorney General's Office will be submitting a budget request to the General Assembly for an additional $200,000. Some counties are putting together funding to do their own programs, as are churches and businesses.

Representative Bechler said that there seem to be more overdose deaths in central and eastern Kentucky. He asked why this would be the case. Attorney General Beshear said that western Kentucky still has more methamphetamine, especially crystal, compared to heroin. A lot of heroin comes in through northern Kentucky and Louisville.

Representative Bechler asked whether the slides on the number of prescriptions per county indicated prescriptions or doses. Attorney General Beshear said that both are shown.

Representative Bechler asked how successful the practice of going after the worst of the worst dealers is. Attorney General Beshear said that he would have to get this information; he would have to go through DEA. He can say there is an increase in cases being tried as murder.

Representative Bechler asked whether the first payment from a verdict or settlement is to an outside firm. Ms. McCoy-Johnson said that typically it will be to pay the firm's costs. Attorney General Beshear said that in some cases, Medicaid will be paid.

Senator Carroll asked whether there is a conflict of interest with any manufacturers or distributors related to the Purdue Pharma case. Attorney General Beshear said that he did not work on the Purdue Pharma case.

Senator Carroll said that the attorney general worked for the firm that represented Purdue Pharma. Attorney General Beshear said that he has not seen a single name on any list that he perceives as a conflict. If that arises, it will go to the Bar Association.

Senator Carroll asked whether the only connection with the Attorney General's Office is former Attorney General Stumbo being employed by Morgan and Morgan. Attorney General Beshear said that Mr. Stumbo is the only person with the firms who has been in Kentucky's Attorney General's Office.

Senator Carroll asked whether former Speaker Stumbo would be working on the case. Attorney General Beshear said that his understanding is that he will not be an active participant. He is the attorney general who filed the Purdue Pharma lawsuit, so he will be available for consultation.

Senator Carroll said that based on his several weeks of research on the Purdue Pharma case, there are blatant concerns with the settlement. In 2007, then Attorney General Greg Stumbo sued Purdue Pharma over its deceptive marketing of the drug OxyContin. He claimed that the case would be worth at least $1 billion to Kentucky. The Attorney General's Office submitted to Purdue Pharma a request for admissions, which is a request by lawyers that the opponents in a case admit that specified facts are true. Admitted facts are conclusively established and need not be proven. The deadline for answering a request for admissions is 30 days. If the deadline is missed, the request is automatically deemed to be admitted. If a request for admissions addresses the central issues in the case, failure to answer by the deadline means, in effect, that the defendant has conceded that it is liable to the plaintiff.

Stites & Harbison, the law firm Purdue Pharma hired to represent it, moved to remove the case to federal court but did not respond to the request for admissions. The parties disputed whether the case was actually eligible for removal to federal court, and the case was eventually sent back to state court. When the case returned to state court in 2013, the Pike County circuit judge ruled that the request for admissions was deemed admitted and that the admissions were permissible at trial. This essentially ended Purdue Pharma's defense. Purdue Pharma immediately asked the Kentucky Court of Appeals to overturn the ruling, arguing that it would not be able to survive the effects of the admission as to liability, thereby leaving damages the only remaining issue.

One of the lead attorneys for Stites & Harbison indicated that there was a potential $1 billion settlement, which meant that the firm could be facing at a legal malpractice liability of the same amount because of the missed deadline. Senator Carroll said that among the materials distributed to Program Review and Investigations members at today's meeting was an April 15, 2013 letter from the Attorney General's Office to the chairman of Stites & Harbison stating that the failure to timely respond to the request for admissions constitutes a possible basis for a legal malpractice claim by the firm's clients. Jack Conway was attorney general at the time. Andy Beshear, as a Stites & Harbison partner, might have been liable for a portion of any malpractice claim.

Attorney General Beshear noted that he wanted to clarify for the record that he was not an equity partner.

Continuing, Senator Carroll said that in August 2013 Attorney General Conway told CN2 Pure Politics that liability was essentially established and the remaining issue was damages. The following month, in response to questions about settling the case, Conway told CN2 that he would not be negotiating much less than nine figures and that he wanted something well into nine figures. In 2014, the Court of Appeals rejected Purdue Pharma's request, thereby leaving in place the ruling of the Pike County circuit judge. Purdue Pharma appealed to the Kentucky Supreme Court, where proceedings carried on into 2014 and 2015.

Suddenly, a month after the 2015 election, the Attorney General's Office settled the case for $24 million, roughly 2 percent of the minimum value placed on the case by former Attorney General Stumbo and a principal with Stites & Harbison. So what had changed? Andy Beshear, a Stites & Harbison partner, was elected attorney general in 2015. In addition to Purdue Pharma getting a low-ball settlement, its law firm, Stites & Harbison, benefited. The agreement contained an unusual provision stating that the request for admissions was deemed not to have been admitted and that the response that Stites & Harbison had submitted to the court was deemed to be properly filed. This ended the possibility that the firm might be sued for malpractice.

Roughly 1 month after the settlement agreement, the Attorney General's Office, now led by Andy Beshear, entered into a contingency contract with the law firm Dolt, Thompson, Shepherd & Kenny. The contract was for representation of the Commonwealth in the lawsuit against Purdue Pharma, which had been settled in December 2015. The contract stated that it was for settlement distribution only, in effect, giving $3.7 million in settlement proceeds to Dolt, Thompson. Former Attorney General Conway soon joined that firm as a partner. Dolt, Thompson had initially been given a contract to represent the Commonwealth in the Purdue Pharma case in 2014, shortly after Conway announced that he was running for governor. The contract provided that the firm would be paid on a contingency basis, meaning that it would be paid a percentage of any amount recovered from Purdue Pharma. However, the contract expired at the end of June 2015, and the evidence indicates that that it was never renewed. If it had been, there would have been no need for the Attorney General's Office to enter into a new contract with the firm in January 2016. The firm had continued working the case after its contract expired in June 2015. It did so at its own peril; Kentucky law is clear that a vendor cannot be paid for work that is not performed pursuant to a written contract. There is no question that such a respectable, experienced firm should have known this.

Senator Carroll asked Attorney General

Beshear why he entered into a contract with Dolt, Thompson, Shepherd & Kenny at the end of January 2016. Attorney General Beshear said that he wished to apologize to the parents in the audience for what was happening at this meeting. Senator Carroll said that the Attorney General had been asked to come before the committee to discuss law firms. The Attorney General replied that he was called before the committee for a discussion, not to be attacked politically.

Senator Carroll said that he is not a political person and that he is pursuing this matter because his research has raised suspicions. Attorney General Beshear said that he strongly disagreed and that he was surprised at the argument that the state did not have to pay the lawyers who worked the case. He was not involved in the contract renewal. His only participation in the case was to make a recommendation for appropriating funds from the settlement.

In response to further questions from Senator Carroll, Attorney General Beshear repeated that he was not involved in the new contract.

Senator Carroll asked whether he was aware the new contract was being signed.

Representative Palumbo said that the topic on the agenda was potential legal action against the drug industry for contributing to opioid abuse. Senator Carroll responded that the Attorney General was made aware of what was going to be discussed. Attorney General Beshear said that he had emailed Program Review staff to say that he had no knowledge of the Purdue Pharma case and was not a part of any settlement talks. The email advised that another witness would need to be secured to testify about the case.

In response to a question from Senator Carroll, Attorney General Beshear said that his office did not pay Stites & Harbison.

Senator Carroll asked Attorney General Beshear whether his office had paid Dolt, Thompson for its services. He replied that the team of lawyers involved in the Purdue Pharma case was paid under the contingency fee contract. The amount paid would have been determined by the settlement that occurred under the previous administration. The payment to the firm was made during his administration.

Senator Carroll asked whether it was correct that Dolt, Thompson was paid for a settlement that was made in December 2015 and the firm was not under contract then. Attorney General Beshear said that he did not know whether the firm was under contract. He said that it would be difficult to argue before a court that the Commonwealth could get out of paying lawyers who were under a contingency fee contract. To be able to secure future contingency fee work, it would be a concern if the Commonwealth would not live up to its obligations.

Senator Carroll said that the firm was not under contract at the time and that Attorney General Beshear initiated a new contract in order to pay them. The Attorney General said that it is basic contract law that a firm that has been under a contract that secured a legal settlement should ultimately get paid for its work.

Senator Carroll asked whether the contract with Dolt, Thompson that he signed was retroactive. Attorney General Beshear replied that he did not sign the contract.

Senator Carroll asked whether he had knowledge of what goes on in his office. Attorney General Beshear said that he did but that he specifically decided not to be a part of anything having to do with Purdue Pharma.

Senator Carroll asked whether he knew how much Dolt, Thompson was paid under the new contract. Attorney General Beshear said that the amount that was received was negotiated down to the present value because all $24 million does not come in at once. By paying the firm for the first installment that came the amount was lessened. He said that he did not negotiate the amount but that he is aware of it. It was $3,747,502.11.

Senator Carroll asked whether he investigated why there was a need for a new contract. Attorney General Beshear replied that he has intentionally not touched anything having to do with the Purdue Pharma matter.

Senator Carroll asked whether it would be his responsibility to determine whether there was a legal obligation from the state to make the payment. Attorney General Beshear replied that he has intentionally not touched anything having to do with the Purdue Pharma matter.

Senator Carroll asked whether he was going to ignore it if there was something improper about the payment. Attorney General Beshear said that the responsibility would be on the on the chief deputy or others. That is how it would normally be handled. Administrative staff were working on this the entire time. He reiterated that he had made the important decision to not touch the Purdue Pharma litigation in any form or fashion, and that he has not done so.

Senator Carroll asked whether, based on his legal experience, it would be unusual for a firm of that stature to let a contract expire before a settlement was made. Attorney General Beshear responded that based on his knowledge as an attorney one cannot get out of a signed contract for which the work has been performed. It would not say a lot about the Commonwealth to hire an attorney, agree to a fee, have the attorney do the work and secure a settlement that is the largest settlement by any state and larger than the entire country of Canada, and then say that the lawyers would not get paid.

Ms. McCoy-Johnson said that the contract expired prior to Attorney General Beshear assuming office in January 2016. At this point, staff were unaware that the contract had expired and did not allow any law firm to proceed with any work on any contract. The prior administration had proceeded with the negotiations and the settlement on December 22. When it was discovered that there was no active contract, staff discussed this with the FAC. Mitchell Denim, the Assistant Deputy Attorney General for Civil and Ms. McCoy-Johnson testified before the Government Contract Review Committee. The contract was approved retroactively so that it could be paid and settle the agreement.

Senator Carroll said that as a layperson the question comes from the fact that there was no contract at the time of the settlement. Attorney General Beshear said that if the attorneys had not been paid the agreed-upon amount that, through the court, the Commonwealth could have also owed numerous attorney fees.

In response to a question from Senator West about whether he worked on the Purdue Pharma case while he was at Stites & Harbison, Attorney General Beshear said no, he was not a part of that litigation team.

Senator West asked whether he avoided this case because of a conflict of interest because he worked for the firm. Attorney General Beshear said that he did not think that the Bar would have recognized a conflict but he was unsure. To be cautious since the matter had been settled, the right thing to do was to let others in the office fully decide and control those decisions.

Senator West clarified that Attorney General Beshear did not work on the case at Stites & Harbison but out of an abundance of caution decided to step back. The Attorney General agreed.

In response to questions from Senator West, Attorney General Beshear said that the $3.7 million for Dolt, Thompson was an agreed-upon contingency fee. There were also payments for attorney expenses and document management. Document management cost $418,000, which shows why outside counsel are needed because just managing the millions of documents ended up costing this much.

In response to questions from Senator Thomas, Attorney General Beshear agreed that he was not an equity partner at Stites & Harbison, which means that he could not be liable for any claim against the firm. He said that his understanding is that the decision in this case was the first of its kind, but that he has not researched it and was not part of it.

In response to a question from Senator

Thomas, Attorney General Beshear agreed that when this case was finally settled, the matter was before the state Supreme Court on appeal. The court was going to be asked whether this issue, which is the first time that it ever happened, was valid.

Senator Thomas said that, as Justice Roach would acknowledge, when a case is before a court for trial or on appeal, the ultimate outcome is unknown and this was not the first case that had been settled prior to an appellate decision being rendered. Attorney General Beshear agreed.

Senator Thomas said whatever decision was made was based on the fact that the Kentucky Supreme Court could have overturned the appellate court decision. Attorney General Beshear agreed that it could have and that the case would still have had to return to trial court for further proceedings. If the court had overturned the previous ruling, it could have been an additional 10 years.

Senator Thomas said that it would be fair to say that both parties made a reasonable decision given the risks regarding the outcome. As already indicated, the settlement was for significantly more than what Canada received. Attorney General Beshear said that he had not seen a state settlement against a single opioid manufacturer that exceeds $24 million, a $35 million settlement was for multiple states.

Senator Thomas said that we ought to be clear that this case was settled before a final decision was made regarding the case. In response to his questions, Attorney General Beshear agreed that Dolt, Thompson had not been paid before and that by paying them for legal services rendered the state was honoring an obligation.

Senator Thomas said that he did not see what the problem is. If attorneys have done the work, they should be paid. Attorney General Beshear said that is basic contract law.

Representative Linder said that he was trying to understand why former Attorney General Stumbo and then current Attorney General Conway mentioned a $1 billion settlement and then the case was settled, apparently in a rush, for about 2 percent of what they said. He asked for an explanation of the sudden shift from $1 billion to $24 million. Attorney General Beshear responded that former Attorney General Conway should be asked that. He can only show the numbers of actual settlements that are publicly available and how Kentucky's settlement compares. He was not part of the settlement and has no knowledge of the thinking that went into it.

Representative Linder said that Attorney General Beshear had earlier apologized to the families in the audience for what they see in their government. If this is true, we need to apologize to the families of Kentucky for what they saw with the previous attorney general.

Representative Bechler said that there was an open records request to the Attorney General's Office last year asking for documents related to Purdue Pharma. He asked why the request was denied. Attorney General Beshear said that he has not touched anything involving Purdue Pharma, so Deputy Attorney General Brown would need to answer that question. Mr. Brown said that when the open records request was submitted he reviewed two legal documents that were filed. One was a settlement confidentiality agreement, which is not unusual during litigation, in which parties exchange information during the course of litigation and then it is agreed through the court what will be held in confidence until the case goes to trial or there is a settlement. That was in 2013. In the final settlement entered December 22, 2015, there were agreements about records that would either be returned to the parties or destroyed. That was pursuant to the court order in the settlement. When the open records request came in, the office had to conform to the agreement of 2013 and the final settlement order of the court.

In response to a question from Representative Bechler, Mr. Brown said that it is not a matter of redactions so that some materials could be provided, it is a matter of compliance with the court order.

Senator Carroll asked how the money was paid from the Purdue Pharma settlement to Dolt, Thompson. Ms. McCoy-Johnson said that the money was transferred to an off-budget account, and the firm was paid through that before the money was transferred into a restricted fund account.

In response to a question from Senator Carroll, Ms. McCoy-Johnson said those funds were not paid directly from Purdue Pharma to Dolt, Thompson.

In response to a question from Senator Carroll, Ms. McCoy-Johnson said that she did not know when the first payment was made, she would have to check. It would have been very shortly after December 22. She said that she thought that the judgment required payment to come within 30 days of that.

Senator Carroll asked Ms. McCoy-Johnson whether she had discussions of the payment with Attorney General Conway or any of his staff. It was the end of his term and he was going to work for Dolt, Thompson, so there were issues related to paying the firm. She replied that the only staff that that she spoke with were staff who were retained from the Conway administration. She discussed some of the money transfers with Larry Clark, a budget person who worked for about 4 months into this administration. Assistant Deputy Attorney General Mitchel Denhem was part of the transition on this.

In response to a question from Senator Carroll, Ms. McCoy-Johnson said that she did not think there was a delay in payment to wait for the new contract to be in effect.

Senator Carroll said that we have been through the question about providing Purdue Pharma or anyone else acting on its behalf with any legal representation or advice of any kind in relation to the Commonwealth's litigation. He asked Attorney General Beshear to clarify that he is saying that he had no involvement whatsoever. Senator Carroll said that he seemed to remember a quote the Attorney General made in a recent interview about answering some questions related to the case within his firm. Attorney General Beshear responded that he could have been asked a question about Attorney General Conway or anything dealing with personalities or the like, but that he was not a part of any litigation team or any settlement talks.

Senator Carroll asked Attorney General Beshear whether he had ever talked to John Famularo about the Purdue Pharma case. The Attorney General said that Mr. Famularo has passed away since that case. He did not recall any conversations, but Mr. Famularo could have asked about the players. The Attorney General said that he was not a part of that litigation.

In response to a similar question from Senator Carroll, the Attorney General said that Dan Danford is an attorney in the [Stites & Harbison] Lexington office. He could have asked about the players. Attorney General Beshear said that he was not a part of that litigation.

Senator Carroll asked whether the answer would be the same for Ken Sagan. Attorney General Beshear said that he did not know that Mr. Sagan worked on the matter; he is not a litigator.

Senator Carroll asked Attorney General Beshear whether he was head of the Stites & Harbison Attorney General Defense Practice Group. He replied that ultimately people hire the lawyer they want to hire in any firm, and that person is the head of any suit. He said that he did not participate in the Purdue Pharma litigation or any settlement talks.

Senator Carroll asked whether he had an official title as the head of the Attorney General Defense Practice Group. Attorney General Beshear said that it was not recognized as an official title; it was part of the marketing of the firm. He said that the meeting was drifting into things left over from the last campaign or that are grossly political and have nothing to do with fighting the opioid epidemic. He said that he wants to work in a bipartisan way to hold these companies responsible.

Senator Carroll said that he wanted to focus on what is being discussed today. He asked whether Attorney General Beshear was saying that it was not his job to be involved in cases that involved the attorney general suing one of his firm's clients. The Attorney General replied that a law firm does not work this way. Someone hires a specific lawyer in the firm. The client decides who does the work. He said that he did not work on the Purdue Pharma matter in any way and was not involved in the settlement talks.

Senator Carroll said that most firms have a system, sometimes called an origination credit, for tracking the amount of business that a lawyer brings to the firm. He asked whether Stites & Harbison had origination credits or something similar when Attorney General Beshear was in practice there. The Attorney General responded that it would definitely be inappropriate to talk about the internal business practices of a law firm that is not present.

In response to questions from Senator Carroll, Attorney General Beshear said that he did not receive origination credit for any work that Stites & Harbison did on Purdue Pharma or any work for subsidiaries.

Senator Carroll asked if subpoenaed records from Stites & Harbison would be consistent with what Attorney General Beshear has been saying. The Attorney General said there would be no record of an origination credit because he did not work on the Purdue Pharma case.

Senator Carroll asked whether this would be accurate for any subsidiary or anyone related to the case. Attorney General Beshear said that not that he was aware of but that he did not know the subsidiaries of Purdue Pharma. He said that he would look at a list of subsidiaries if the committee has one. He said that he was not aware of any Purdue Pharma subsidiaries for which he had ever received any type of origination credit.

Senator Carroll asked whether Attorney General Beshear would be willing to provide billing records to the committee. The Attorney General responded strongly that you cannot do that as an attorney because you would violate virtually every ethical obligation that you have, and they are not his records. The attorney general's office is the only office that has a professional requirement related to it. You have to be a lawyer in good standing. Turning over billing records would change a lawyer in good standing to one that is not and could possibly disqualify you from office.

Senator Carroll asked whether the Attorney General's father, former Governor Steve Beshear, returned to practice at Stites & Harbison following his term as governor. Attorney General Beshear said that he did but not as an equity partner.

In response to a question from Senator Carroll, Attorney General Beshear said that he did not know any details of his father's compensation or partnership package.

Senator Carroll asked whether Attorney General Beshear knew whether his father receives origination credit related to Purdue Pharma or any of its subsidiaries. The Attorney General said that he knew nothing about origination credits because he knows nothing about the contract. He said that his father returned to the firm long after the Purdue Pharma settlement.

Senator Carroll asked Attorney General Beshear whether he was aware of the letter dated April 15, 2013, that establishes a notice of potential legal malpractice. The Attorney General said that he had not seen the letter, but that he believes he was told about it at some point.

In response to questions from Senator Carroll, Attorney General Beshear said that he did not remember when he was told about the letter, but it was while he was at Stites & Harbison. He said that he would not have worried about it, the firm's attorneys can handle their business.

Senator Carroll asked Attorney General Beshear whether he was ever involved in any discussions related to the failure to comply with requests for admission. He replied that he was not involved in any discussion that he could recall on that. He said that he thinks he was told about it.

Senator Carroll said that the Purdue Pharma case started in 2007. He asked Attorney General Beshear why he would not have been involved before he decided to run for attorney general. The Attorney General replied that he did not move back to Kentucky until 2005. The case came to the Lexington office, which chose its own attorneys. At the time, there were more than 200 attorneys in the firm, so it would not be unusual for him not to have staffed one of the tens of thousands of cases the firm had. The same would be true of Governor Bevin's General Counsel, whose firm had represented Planned Parenthood. That does not mean that he represented Planned Parenthood, it just means that the firm did.

In response to a question from Senator Carroll, Attorney General Beshear said that he did not know whether Stites & Harbison put its malpractice insurance carrier on notice for a potential claim, but that it would be a standard practice.

In response to a question from Senator Carroll, Attorney General Beshear said that his last day of employment with Stites & Harbison was the end of November 2015. He said that this is getting far afield from the opioid crisis that we should all be fighting together. Before they left, the parents who were here who have lost their children said they are ashamed of what was going on here.

Senator Carroll said that is a separate issue on which everyone is on the same page. This has to do with Attorney General Beshear's credibility and the way this case was handled.

Attorney General Beshear said that it has to do with a political attack.

Senator Carroll said that it has to do with concerns about where Attorney General Beshear is headed and his ability to handle the cases that are coming.

Attorney General Beshear said this is based on a case that he was not a part of.

Senator Carroll said that citizens should decide that for themselves. He asked Attorney General Beshear to describe the transition process that occurred between his election as attorney general in 2015 and his swearing in to replace Attorney General Conway in January. Attorney General Beshear said that he had a conversation with General Conway about staffing, which he said he believed was the only conversation.

In response to a question from Senator Carroll, Attorney General Beshear said that he did not discuss pending litigation with Attorney General Conway. At that point, he was not part of the attorney-client privilege with the office.

Representative Palumbo told Attorney General Beshear that he should not stand for any more of these personal, political attacks. He said that he appreciated this.

Senator Carroll asked Attorney General Beshear whether he or anyone on his staff had conversations with former Attorney General Conway or anyone on his staff about the Purdue Pharma case. Attorney General Beshear said that he did not. There were staff from the previous administration who carried over.

Senator Carroll asked Attorney General Beshear whether he used information that he learned during the transition period to help Stites & Harbison settle the Purdue Pharma case. Attorney General Beshear responded that he was not involved in any way with the settlement.

In response to a question from Senator Carroll, Attorney General Beshear said that he had no knowledge of any settlement discussions between Purdue Pharma and the Commonwealth.

Senator Carroll asked whether the answers of attorneys from Stites & Harbison would be consistent with his if they were subpoenaed.

Attorney General Beshear said that he did not know what Stites & Harbison attorneys knew if they were part of the settlement discussions.

Representative Bechler said that given the length of this discussion, there would be no presentation at this meeting on the foster care report. He apologized to staff who were presenting the report and those who were to respond to it. He invited Judge Walker-FitzGerald to testify so that she would not have to return for next month's meeting. [At this point, it was learned that Judge Walker-FitzGerald was no longer in the audience.]

Attorney General Beshear said that he would be happy to take a few more questions, but that he was here voluntarily. He said that he has not seen a constitutional officer treated this way before this body and that he has not treated legislators in a similar manner. He said that he wants to work with legislators, drugs are not partisan, and today felt like an attack. We ought to be working together to hold these companies responsible for the opioid epidemic.

Senator Thomas said that he agreed with General Beshear and Representative Palumbo that this is a political action. To say that one is not a politician in nature when one is an elected official who conducts an inquiry like this, it is obviously political. Someone is at this hearing who has already announced a decision to run for attorney general in 2019. Senator Thomas said that he wanted to follow up on some of the questions to be clear on the law. He asked whether his understanding was correct that under Kentucky law you cannot enter into a contract for retroactive payments. Attorney General Beshear said that he would have to look into that. Ms. McCoy-Johnson said that the second Dolt, Thompson contract was a renewal, not a new contract.

Senator Thomas asked whether he was correct that a large law firm could have hundreds of clients, so not every member of the firm works on a particular case. Attorney General Beshear replied that 98 to 99 percent of the members of such a firm would not be working a specific case. In his experience, clients want a small group of people who they trust working on their matter.

Senator Thomas said that he applauded Attorney General Beshear for his ethical decision given the attention given to the Purdue Pharma settlement to avoid any appearance of impropriety by removing himself from anything that the Attorney General's Office did with case. Senator Thomas said that he would have done the same thing.

Attorney General Beshear said that he appreciated that. In reference to previous questions that mentioned subpoenas, he said that the settlement agreement, which was entered into by the previous administration, could potentially be breached by those actions. The committee should be very careful. If the settlement agreement is breached, the Commonwealth may have to pay Purdue Pharma $24 million. Groups like "Hope in the Mountains" could have to return funds they have received via the settlement.

Senator Thomas said he did not understand the relevance of former Governor Beshear's compensation. He would welcome an explanation of how this is relevant to the opioid addiction issue or the Purdue Pharma settlement.

Senator Carroll asked Attorney General Beshear whether he was aware that former Attorney General Stumbo was on the record stating that the Purdue Pharma case was worth at least $1 billion dollars to the Commonwealth. Attorney General Beshear replied that if he said it, he said it. Attorney General Beshear said that he was not part of this litigation or the settlement talks.

Senator Carroll asked Attorney General Beshear whether he was aware that then Attorney General Conway said that he would not sit down at the table unless there was a nine figure settlement offer. Attorney General Beshear said that former Attorney General Conway would need to be asked that.

Senator Carroll asked Attorney General Beshear whether he would agree that compared to those statements, a $24 million settlement is low. Attorney General Beshear replied that he had never seen a collected billion dollar settlement against a pharmaceutical company. He continued by saying that, having not been a part of the litigation and not having not seen the documents, all that he can show are the numbers that others have settled for. There is no question that OxyContin ravaged our communities, but so did other opioid pharmaceuticals that he is ready to go after. He said that he wants to move forward together to save a number of our children if we can change the rates of addiction, but we cannot do it that if we are engaged in this.

Senator Carroll said that is why it is so important that we get these questions asked so that we can get it behind us. He asked Attorney General Beshear whether he was aware that the settlement agreement between the Commonwealth and Purdue Pharma specifically states that the requests for admission to Purdue Pharma were deemed admitted by Purdue Pharma under oath by the Pike County Circuit Court dated April 1, 2013, and September 25, 2013, are hereby withdrawn pursuant to CR 36.02 and Purdue Pharma's April 12, 2013, responses are accepted into the record as proper responses to the Commonwealth's October 4, 2007, request for admissions. Attorney General Beshear said that he had read the settlement but was not aware of any of the settlement discussions, so he could not testify on any decisions related to the settlement.

Senator Carroll asked Attorney General Beshear whether his legal opinion is that the provisions of the settlement get Stites & Harbison off the hook for any potential malpractice claim. Attorney General Beshear said that he would have to analyze the litigation.

Senator Carroll asked why the Attorney General's Office would agree to such a provision and whether it was unusual. Attorney General Beshear responded that in every litigation that is settled the discovery ultimately goes away because the settlement says that no one is admitting liability.

In response to questions from Senator Carroll, Attorney General Beshear said that he did not know if anyone at Stites & Harbison receives a success bonus for settling cases. He said he had never received one.

In response to questions from Senator Carroll as to whether anyone connected to Purdue Pharma or anyone from Dolt, Thompson contributed to his campaign for attorney general, Attorney General Beshear said that he did not know.

Attorney General Beshear said that he had been more than patient in answering every question he could. This has moved into issues from a previous campaign. He said that he has been more transparent than any other attorney general, including releasing his tax returns, which no previous attorney general has. He said that he looked forward to working with those who were not leading this questioning to address the opioid epidemic.

[At this point, Attorney General Beshear and Ms. McCoy-Johnson left the meeting.]

Senator Buford asked former Justice Roach if he had any idea of the settlement that would be hoped or asked for with the new cases that are being pursued. He responded that his approach is to treat every case like it is going to a jury, so it would be up to the other side to propose a resolution.

Senator Buford asked whether other states have been successful and whether other states join with Kentucky on this matter. Justice Roach said that the earlier presentation listed some states that have broad actions. Everything is early. There are also county cases.

Senator Buford said that in previous administrations it could take 2 to 3 months to get a response from the FAC.

Justice Roach said that his job is to help this team become acquainted with Kentucky. Ultimately, the attorney general can make a decision about how to resolve cases.

Senator Buford asked Justice Roach whether he had an opinion on how the Purdue Pharma case was so mishandled. He replied that he only knew what he has read in newspapers.

Senator Buford asked whether there was information that could be released as an open record about the Purdue Pharma case since it was resolved. Senator Carroll said Mr. Brown addressed this; there are stipulations in the agreement that say that none of that can be released.

In response to a question from Representative Bechler, Justice Roach said that he did not know what percentage of opioid abusers started with marijuana.

Mr. Brown said that about 6 years into the case a protective order was issued, which is, in effect a confidentiality order concerning the documents that were being produced. During the course of discovery, parties exchanged information and documents as part of civil procedure. When the case was finally adjudicated and settled, there was no admission of liability. Therefore, the information that had been exchanged goes back to the owner or is disposed of as per order of the court. Nothing becomes an open record, it is the opposite of that.

Representative Bechler thanked everyone and said that the next meeting of committee would be November 9.

The meeting adjourned at 12:20 PM.

PUBLIC PENSION OVERSIGHT BOARD

Minutes

September 25, 2017

Call to Order and Roll Call

The 8th meeting of the Public Pension Oversight Board was held on Monday, September 25, 2017, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brian Linder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Bo Cracraft, Legislative Research Commission; Donna Early, Executive Director, Judicial Form Retirement System; Beau Barnes, Deputy Executive Director, Teachers' Retirement System; and David Eager, Interim Executive Director, Kentucky Retirement Systems.

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

Approval of Minutes

Senator Bowen moved that minutes of the June 26, 2017 meeting be approved. Representative Webber seconded the motion, and the minutes were approved without objection.

Semi-Annual Investment Review

Bo Cracraft, Legislative Research Commission, discussed the total assets under management for all state administered pension and insurance plans. Total assets were approximately $36.6 billion, with the pension assets totaling $31 billion and the insurance assets totaling $5.6 billion. Mr. Cracraft noted a couple unique differences between the two trusts, highlighting the Teachers' Retirement System (TRS) accounted for approximately 60 percent of the assets on the pension side, while the underlying five systems of the Kentucky Retirement Systems (KRS) accounted for the majority of insurance assets.

Mr. Cracraft provided a market review and noted that, overall, the 2017 fiscal year was a positive year for investment markets, with several asset classes posting strong positive returns. Most notably, the more traditional asset classes, such as public equity, that almost every pension plan is utilizing, were top performers. Equity markets, including U.S. and Non-U.S., bounced back from tough 2016 performance. Outside of equity markets, non-investment grade, or higher yielding, bonds performed well and provided a little over 12.5 percent return. Private Real Estate provided 7.9 percent return, while U.S. Core Fixed and Treasury Inflation Protected Securities (TIPS) were slightly down.

Mr. Cracraft provided a summary of annual fiscal year returns for plans over the past 20 years. Mr. Cracraft highlighted a slight change made from prior staff reviews to report the Kentucky Employee Retirement System (KERS) and County Employees Retirement System (CERS) independently. Reporting the plans independently makes more sense as the plans begin to perform differently, as evident over the past three plus years.

Moving to trailing performance, Mr. Cracraft highlight one year returns that ranged from 12 to 15 percent, noting that all the plans had performed well relative to assumptions, performance benchmarks, and median returns of public or staff developed peer groups. Taking a longer term view, Mr. Cracraft noted that 10- and 20-year returns had come down from prior years, which was largely due to the fact that strong performance from the late 1990s was now dropping out of the 20-year period. Looking beyond, at 30-years, both KRS and TRS had returns above 8 percent, while since inception the Judiciary Form Retirement System (JFRS) was also above 8 percent.

Mr. Cracraft provided an update to recent changes to return assumptions for several of the plans. He noted recent discussion regarding plan assumptions and changes currently occurring within the industry. A lot of plans across the country are changing assumptions, with 35 out of the 69 plans included in staff's peer group having adjusted their assumption either for their most recent or upcoming valuations. While more plans are lowering assumptions, the median and average for the industry is still 7.5 percent, which is a reflection of the slow, incremental nature of changes being experienced. Within Kentucky, two of the systems have made changes to assumptions. First, KRS changed assumptions for all ten of their underlying plans on the pension and insurance side, while JFRS also reduced their assumption. TRS has been having active discussions but, as of today, there have not been any changes to their assumption.

Mr. Cracraft asset allocation and highlighted that a plan's underlying return is largely driven by the way a plan allocates assets. Staff discussed more traditional asset classes, such as public equities and fixed income, noting most are utilized by every plan in the peer group, liquid in nature, and well-known. Other options, such as Alternative Assets, include real estate, private equity, and absolute return. Mr. Cracraft noted that most plans allocate 75 to 80 percent of their assets in traditional assets and that, historically, 90 percent of plan returns were dictated by how they decided to allocate among these asset classes. Mr. Cracraft discussed the larger universe, noting that, across public pension funds, the average allocations had remained relatively unchanged. In the mid-1980s, it was predominantly fixed income with a healthy allocation of public equity, which rotated over in the mid-1990s. Within the last few decades, alternative assets begun to increase, and the peer group has had a consistent allocation of around 25 percent the past several years.

In response to a question from Senator Bowen, Mr. Cracraft stated that not all of Kentucky's plans mirror the larger universe. He noted the differences between TRS and KRS, where TRS is following the larger trend of adding alternative assets, but has been slower and less aggressive than KRS. Ultimately, this is driven by Investment Committees, who perform asset liability modeling studies and have consultants help present the data before making a decision on how to allocate assets.

Mr. Cracraft discussed recently approved new targets for KRS' asset allocation. The KRS Investment Committee has been evaluating their asset allocation over the last several quarters and recently approved new targets for each plan that staff will begin transitioning to over the course of fiscal year 2018. KRS has decided to reclassify assets into three new strategic allocations: Equity, Credit, and Diversifying Assets. The underlying asset classes remain the same, but how staff aggregates will look different as they target 45 percent to Equity, 30 percent to Credit, and 25 percent to Diversifying Assets. The most notable reduction is in Non U.S. Equity and U.S. Equity, which is being reallocated into Global Fixed and Credit or Illiquid Fixed.

In response to a question from Representative Miller, Mr. Cracraft stated the difference between real return and absolute return is real return includes hard assets, commodities, inflation linked assets, or total return products, while absolute returns are fund of fund or direct hedge funds and are treated as a separate allocation.

In response to questions from Representative Kay, Mr. Cracraft indicated he did not believe KRS had taken a fully passive approach on the equity side just yet, and that KRS' decision likely is dependent on the upcoming budget and cash flow. If the plan continues to sell assets at a regular rate, it is more difficult to invest in active, niche strategies that tend to be more volatile. A portfolio that is consistently having to sell assets would rather passively invest in the larger market.

In response to questions from Representative Kay, Mr. Cracraft noted that if a plan does have a large number of retirements then one would expect total benefit payments to increase, while the level of active employee contributions would decline. In that scenario, there would be a need for additional employer contributions to make up the difference.

In response to a question from Representative Fleming, Mr. Cracraft clarified that Credit Fixed are strategies that a lot of plans call opportunistic or illiquid credit. Some of these are below investment grade strategies, some are bank loan or direct lending approaches, while others might be distressed debt. The strategies are structured more like private partnerships, generally have longer time horizons, and are more speculative.

In response to a question from Representative Fleming, Mr. Cracraft indicated he believed the recent allocation changes were more reflective of KRS's concern over equity returns in the short term. Public equity markets, especially in the U.S., have had a tremendous period of growth, and valuations across the board are considered a bit over valued. Capital market assumptions and expectations have come down, so there is concern going forward. Within fixed income, Kentucky has entered a period where most feel rates have to go up, so the opportunity in core U.S. fixed income is also not overly attractive. So, a lot of plans are trying to be more credit oriented, more private. Both TRS and KRS, have been diversifying their fixed income portfolios out of traditional public into more opportunistic credit oriented mandates. End to end, Mr. Cracraft noted that much of this had more to do with concern over the next 5 to 10 years of equity markets.

Mr. Cracraft provided a summary of reported fees and noted that, while passage of SB2 during the 2017 regular session introduced new reporting requirements, the majority of changes are not required until the upcoming fiscal year. For fiscal year 2017, the average management fees, which are based upon market or committed value, were 41 basis points for KRS, 31 basis points for TRS, and 6 basis points for JFRS. Other Fees and Incentives, which are items that were incorporated into SB2, included carried interest and profit sharing, are expenses that will be begin being reported in the first quarter of the 2018 fiscal year. For fiscal year 2017, KRS included these fees, which added 31 additional basis points to management fees, resulting in a total fee of 72.6 basis points. JFRS does not utilize performance incentives, while TRS will begin reporting in the future. KRS Insurance Fund fees are pretty consistent with the pension fund on a basis point comparison. TRS fees are slightly higher for their insurance fund, which is a product of the fund having a more growth-oriented allocation that includes a higher allocation to additional categories.

In a response to Senator Parrett, Mr. Cracraft stated that when management fees are compared to other pensions in the U.S., TRS is likely slightly below peers, while KRS is average to slightly below average of peers.

Mr. Cracraft provide an update on the how the plans were transitioning in regard to new SB 2 compliance requirements. At a high level, each of the plans are working diligently to meet the requirements if they have not already. As of August 2017, both KRS and TRS met new requirements regarding investment expertise on their boards. JFRS cannot comply until current terms expire, but will do so with future appointments. In regard to the Asset Code of Conduct requirement, KRS staff has incorporated additional language for new contracts or renewals, while existing managers have been notified of the law change regarding Code of Conduct. TRS, which had existing code of conduct language in statute, has already required existing managers to comply and has assured that new contracts will incorporate SB2 requirements where not already in place. Public disclosure of investment contracts is likely the most labor intensive of the new requirements, with several hundred managers across the larger plans. Both TRS and KRS are in the process of reviewing their contracts for redaction purposes, and TRS has recently started to post contracts online. Lastly, all three plans have adopted new Investment Procurement policies and submitted them to the Finance Secretary for certification. The TRS and JFRS policies have been approved by the Finance Secretary.

Biennial Budget Request – Judicial Form Retirement System

Donna Early, Executive Director, Judicial Form Retirement System, noted the agency administers both the Judicial Retirement Plan (JRP) and the Legislators' Retirement Plan (LRP). Ms. Early reviewed return and asset allocation information for both the defined benefit and hybrid cash balance plans of JRP and LRP. The board is pleased with performance and all portfolios have outperformed their policy benchmarks for all trailing periods except the final quarter of fiscal year 2017. The JRP defined benefit plan total portfolio market value was $371 million and the hybrid cash plan is $542,775, while the Legislators' defined benefit plan totaled $110 million and the Hybrid cash plan was $145,643. Ms. Early stated that performance trends from fiscal year 2017 are expected to continue through the first quarter of fiscal year 2018.

Ms. Early provided preliminary information on cash flow from fiscal year 2017 and noted that both JRP and LRP saw assets grow 10.1 percent over the fiscal year.

Ms. Early discussed funding data and noted a change in the long-term interest rate for the defined benefit plans to 6.5 percent from 7 percent. In regard to the ARC payment, Ms. Early pointed out that the funding formula for JFRS is a statutory formula, which provides for the same appropriation each year of the biennium. For the JRP defined benefit plan, the 2016-2018 biennium budgeted amount was $13.1 million and the preliminary estimates for 2018-2020 are expected to be $8.6 million, which is a decrease of $4.5 million, or 34.36 percent. Using a percent of payroll formula, the JRP contribution rate is expected to decline from 43.66 percent of pay to 31.31 percent. Estimated contributions for the JRP hybrid cash balance plan is estimated to increase $94,000, or 35 percent, which is an increase in dollars, but not percent of pay. For the LRP defined benefit plan, the 2016-2018 biennium budgeted amount was almost $2.4 million and the preliminary estimates for 2018-2020 are expected to be $1.1 million, which is a decrease of $1.2 million, or 53.87 percent. Using a percent of payroll formula, the JRP contribution rate is expected to decline from 53.38 percent of pay to 29.75 percent. Estimated contributions for the JRP hybrid cash balance plan is estimated to increase $5,000, or 35 percent, which is an increase in dollars, but not percent of pay.

Biennial Budget Request – Kentucky Teachers' Retirement System

Beau Barnes, Deputy Executive Director, Teachers' Retirement System, discussed the investment performance and rankings relative to public peers. In the past year, TRS' investment return was in the top 8 percent of the country. Over a 3-year period, TRS ranks in the top 11 percent, over 5 years in the top 13 percent, and over the 10-year period in the top 9 percent.

Mr. Barnes discussed TRS' gross and net returns. He stated TRS has been able to negotiate among the lowest investment fees in the country. Over the 1 year, net of fee returns were are 15.02 percent, 3 year are 6.03 percent, 5 year are 9.87 percent, 10 year are 6.09 percent, 20 year are 6.55 percent, and the 30 year period gross return is 8.1 percent.

Mr. Barnes provided the systems budget request and highlighted several key components, such as annual budget expenditures, amortized payments, actuarial determined employer contributions (ADEC), and statutory contributions. First, Mr. Barnes discussed annual budget expenditures, which represent normal, recurring budget expenses. The largest and majority of this component is the Commonwealth's share of the 2010 shared responsibility legislation regarding retired teachers' health insurance. Next, Mr. Barnes described total amortized payments, which represent past benefit adjustments that the state is amortizing over time, such as prior ad hoc COLA adjustments. Third, Mr. Barnes outlined ADEC, which includes any prior year shortfalls and the remaining funding needed to pay down the current unfunded liability. Next, Mr. Barnes referenced statutory contributions included in the Department of Education budget, which represented the 13.105 percent statutory rate for all employers. Lastly, Mr. Barnes highlighted one additional state expenditure related to the system, which is an expense required for the state to service bonds issued as part of the shared solution. This expense is included in the TRS budget, although all proceeds are used to pay down the existing bonds. Mr. Barnes noted, when all dollars are incorporated, the TRS total budget request for fiscal year 2019 is estimated to by just under $1.3 billion.

In response to a question from Representative Miller, Mr. Barnes stated that TRS continually monitors its actuarial assumptions and can assure the Public Pension Oversight Board (PPOB) all the assumptions are developed fully in compliance with actuarial standards of practice, which are promulgated by the Actuarial Standards Board. Mr. Barnes stated that TRS' recent payroll growth was 3.5 percent.

Mr. Barnes discussed cash flow from the recent fiscal year and highlighted the $495 million increase in employer contributions. Total assets for TRS were $16.8 billion at the beginning of fiscal year 2017 and $18.7 billion at the end of fiscal year 2017. He stated there were still some negative cash flow but still had investment gains of approximately $2 billion.

Biennial Budget Request – Kentucky Retirement System

David Eager, Interim Executive Director, Kentucky Retirement Systems (KRS), made a few opening comments. KRS is beginning to see projections for the first time in quite a while where the unfunded liability is flattening out. All 10 plans experienced an increase in plan assets over the past year and received $98 million over the ARC. Mr. Eager highlighted how hard KRS is working to drive fees down, saying that retirements are up 13.5 percent as of the end of September. About 6,000 additional active members are eligible to retire with full benefits.

Mr. Eager discussed recent assumption changes and highlighted the inflation assumption, which he believes is the key assumption. This assumption drives the investment assumption and he referenced the Federal Reserve's target of 2 percent, which is just below KRS' new assumption of 2.3 percent.

Mr. Eager discussed the estimated annual required contributions for each underlying plan. He highlighted the KERS non-hazardous plan, where contributions for fiscal year 2017 were $772.9 million, or 48.59 percent of pay, but are estimated in fiscal year 2019 to total $1,338.1 million, or 84.06 percent of pay. When incorporating all five pension plans and using the revised assumptions for payroll, inflation, and investment return, the total increase in contributions from fiscal year 2018 is expected to be just under $1.0 billion.

Mr. Eager discussed investment returns and stated that from an actuarial standpoint, using the smoothing 5-year model, the return is going to be about 8 percent, while the actual market return was about 13 percent. The actuarial value of assets has been about $800 million more than real market value, so KRS is going to close that gap by about $300 million.

Mr. Eager provided a summary of unfunded liabilities for each system. He highlighted KERS non-hazardous, which, when the revised assumptions were used, was 14 percent funded in fiscal year 2016. Mr. Eager stated that to his knowledge, KERS was the most underfunded plan in the country, and the collective funds are at a tie with New Jersey. Looking at projections going forward, incorporating the additional funding requested, KERS' unfunded position should bottom out at about $13.45 billion in fiscal year 2018, before beginning to fall.

Mr. Eager discussed cash flow for the fiscal year. While the asset levels for all five pension plans have gone up, they still are not in great shape and relied on investment income. He highlighted the KERS non-hazardous, noting it had $913 million in total cash inflows, which included member contributions of $105 million, employer contributions of $703 million (from $513 million), and the remaining from employer cessation payments and investment income. The total outflow was $971 million so the net cash flow was still negative. Mr. Eager stated there was a similar pattern for all KRS plans.

Representative Kay asked if Mr. Eager thought it would be an advantage to KERS if the Legislators' Retirement Plan were to share in the KERS non-hazardous retirement plan. Mr. Eager stated he would defer the question to the General Assembly.

Representative Kay made a comment that he believed it would be a good avenue for the legislators to move their retirement to KERS. He noted several comments had been made today that indicate the Legislature's underfunding has not been the main source of the problem, but he referenced the PFM Group Consulting, LLC (PFM) report #2 that noted underfunding as a huge portion of the problem and estimated total underfunding of KERS non-hazardous to the tune of $2.6 billion. He noted the plan only held $2.1 billion in assets for the plan and the underfunded amount totaled more than what is currently in the plan. Rep. Kay noted past COLAs, which were passed without funding, and highlighted the Legislature's passage of the law requiring the calculation for the ARC. Mr. Kay stated the Legislature will stand upon its responsibility to fund these systems and not pass the buck.

Representative Linder noted that HB 238 in 2016 required the PPOB to retain an actuary to be paid for by the systems and to evaluate the funding needs prior to each budget biennium. In June, an RFP was issued and it closed on August 8, 2017. During the August meeting, a three-member review panel consisting of Representative Linder, Senator Schroeder, and

Co-Chairman Bowen was assigned to review the proposals. Unfortunately, the panel only received two proposals. Therefore, it is the opinion of the Co-Chairs to not reward a contract based on the following information. First, it would save the systems taxpayer dollars due to the requirement already fulfilled by PFM, which sufficiently answered the question of funding, and would therefore be redundant. Second, there was a lack responses, with only two qualified parties. Representative Linder entertained a motion to recommend to the Legislative Research Commission (LRC) that no contract be awarded under the solicitation and that it be cancelled. Senator Bowen moved that the PPOB recommend to the LRC that RFP be cancelled. Representative Webber seconded the motion, and the cancellation was approved without objection.

Public Comment

Gregg Riggs, retired Chief Officer, Frankfort Fire & EMS, wanted to know why the legislative and judicial retirement was treated differently. He stated the JFRS is better funded and does not take the chances like the other systems. Mr. Riggs wanted to know why the legislators even had a retirement plan due to being considered part-time employees under the Constitution. He pleaded for the legislators to either drop their retirement or pool together in the other systems.

With no further business, the meeting was adjourned.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes

October 11, 2017

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, October 11, 2017, at 1:30 PM, in Room 131 of the Capitol Annex. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guest Legislators: Representatives Danny Bentley and Addia Wuchner.

Guests: Steve Miller, Commissioner, Veronica Cecil, Deputy Commissioner, and

Samantha McKinley, Pharmacy Director, Department for Medicaid Services, Cabinet for Health and Family Services; Chris Harlow, Pharm.D, President, Kentucky Pharmacists Association, St. Matthews Pharmacy; Rosemary C. Smith, R.Ph., Co-Founder, Kentucky Independent Pharmacist Alliance, Jordan Drug, Inc.; Alyson Roby, PharmD, CDE, Medica Pharmacy; Trevor Ray, PharmD, Midway Pharmacy, Independent Pharmacist; Melodie Shrader, Senior Director, State Affairs, Pharmaceutical Care Management Association; Rosmond J. Dolen, Kentucky Association of Health Plans; Kasey L. Alford, PharmD, President, CEO, Alford's Pharmacy and Drive-Thru; and Richard Ponesse, Senior Director of Trade and Finance, Industry Analytics, CVS Caremark.

LRC Staff: Jonathan Scott, Becky Lancaster, and Heather Scott.

Approval of the Minutes from the September 20, 2017 Meeting

A motion to approve the minutes of the September 20, 2017 meeting was made by Senator Alvarado, seconded by Representative Gooch, and approved by voice vote.

Presentation on the Regulation and Oversight of Pharmacy Benefit Managers

Steve Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS), stated that the Department for Medicaid Services (DMS) annual budget is $11 billion, of which $1.6 billion is for pharmacy costs. By having the pharmacy benefits handled through the managed care organizations (MCOs), Kentucky saves 10 to 12 percent or $150 to $180 million a year. DMS implemented a 90 percent medical loss ratio (MLR) for the Medicaid population in the MCOs contracts.

Veronica Cecil, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that the MCOs monthly capitation rates are developed for each contract period by an actuarial firm. MCOs utilize eligibility, use actual claim experience, and apply adjustments to the base data. In regards to the pharmacy benefit, MCOs may waive or impose lower co-payments but not exceed the maximum co-payments. DMS allows each of the MCOs to delegate authority to Pharmacy Benefit Managers (PBMs). The PBMs are a subcontractor of the MCOs. Subcontractors must comply with the provisions of the MCOs contract. MCOs must provide oversight to the subcontractor.

Samantha McKinley, Pharmacy Director, Department for Medicaid Services, Cabinet for Health and Family Services, stated that participants in the pharmaceutical supply chain may not handle the drug but have significant influence over the distribution to the consumer. The additional participants mentioned in the pharmaceutical supply chain are the health insurance payer, PBMs, group purchasing organizations (GPOs), and pharmacy services administrative organizations (PSAOs). GPOs allow the independent pharmacy to take advantage of aggregate purchasing power to obtain better discounts and rebates from manufactures. Chain pharmacies have a higher purchasing volume and have more success negotiating on their own behalf.

PBMs developed from the reimbursement side as an opportunity to confront escalating costs of the drug market. PBMs can be owned by insurance companies, health maintenance organizations (HMO), manufacturers, retail pharmacies, or private entities. Health plans contract with PBMs to process and pay for prescription drug claims for its network pharmacies. PBMs also contract with pharmacies to create networks to dispense medications. PBMs establish the reimbursement levels in those contracts. PSAOs provide services to pharmacies that include contracting, financial intermediation, and other supportive activities with PBMs. DMS contracts directly and only with MCOs for the delivery of the pharmacy benefit on a capitation basis. DMS is not a party to the other agreements in the pharmaceutical supply chain.

Deputy Commissioner Cecil stated that DMS has requirements in the MCO contracts regarding conforming to applicable law, policies, and procedures. DMS has provider network requirements that would apply to subcontractors. DMS has a required corrective action process that could result in civil money penalties or sanctions. MCO contracts contain a withhold provision, where DMS may withhold a portion of its monthly capitation payment until the violation is corrected.

In response to questions from Senator Alvarado, Ms. McKinley referenced the DMS contracts with MCOs. MCOs are held responsible for any violations made by one of its subcontractors, such as PBMs. Commissioner Miller stated that the state law requiring a notice of change in rates does apply to MCOs. Ms. McKinley stated that if PBMs do not notify its pharmacies of a change in rates, MCOs would be responsible for the violation. She stated that she did not explore the amount of money spent on the oversight of the pharmaceutical supply chain. Deputy Commissioner Cecil stated that in regards to the MLR, costs are not broken out specifically for the pharmacy costs. When the actuary sets the MCOs' capitation rates, the pharmacy costs are in the aggregate of the 90 percent MLR. The actuary will look at the outliers and evaluate the information to ensure there is cost efficiency in the development of the rates.

In response to questions from Senator Meredith, Deputy Commissioner Cecil stated that DMS manages the MCOs and MCOs have oversight of the PBMs. Commissioner Miller stated that DMS runs metrics on each of the MCOs on a monthly basis. DMS is not aware of PBMs being out of compliance with MCOs' contracts. CVS Caremark has over 50 percent of the Medicaid pharmacy business in the Commonwealth. Deputy Commissioner Cecil stated that there is no contract or provision that prohibits a company from owning a pharmacy and becoming a PBM. PBMs providing oversight for its own pharmacies could be a federal trade issue. Commissioner Miller stated that there is not a means to give local providers ownership of the process and have things mandated by the State under the state plan amendment that DMS is operating under. Providers could come together and work with MCOs on a risk sharing plan. A number of changes would need to happen that are not anticipated and not a part of the 1115 Kentucky HEALTH waiver that is pending approval from the Centers for Medicare and Medicaid Services (CMS).

In response to questions from Representative Bentley, Commissioner Miller stated that DMS monitored the drug costs paid, national studies of the prices, and costs being incurred by MCOs that determined the 12 percent savings the PBMs provided to the Commonwealth. Outside the Medicaid population there may be more savings and DMS is closely monitoring the savings created by the MCOs.

In response to questions from Senator Carroll, Commissioner Miller stated that determining if MCOs are efficient depends on the how efficiency is measured. There are different levels of complaints that DMS receives on the MCOs. Deputy Commissioner Cecil stated that DMS does not track violations made by PBMs. The PBMs' complaints are channeled through the Department of Insurance (DOI). Medicaid providers disagree as to which of the MCOs is the best and worst at providing benefits. Commissioner Miller agreed that more MCOs bring about more administrative burdens for all departments.

In response to questions from Senator Alvarado, Commissioner Miller stated that access to local pharmacies for Medicaid members would be an issue if the independent pharmacies stopped participating in the MCOs' plans.

In response to questions from Senator Meredith, Commissioner Miller stated that DMS is not privy to the details of the contracts between independent pharmacies and the PBMs and PSAOs.

In response to questions from Representative Bentley, Commissioner Miller stated that it would require a total restructure within DMS to carve out pharmacy benefits from the MCOs' contracts. A restructure would require an increase in the internal amount of people, skill sets, and administrative costs.

In response to questions from Senator McGarvey, Commissioner Miller stated that DMS did not anticipate that four of the five MCOs would be using the same PBM. Deputy Commissioner Cecil stated that each of the MCOs has a different contract with its PBM.

Presentation on Independent Pharmacy Reimbursement Challenges

Rosemary C. Smith, R.Ph., Co-Founder, Kentucky Independent Pharmacist Alliance, Jordan Drug, Inc., stated that DMS does not have direct contracts with PBMs. Kentucky Medicaid cannot provide sufficient oversight over how the PBMs are treating Kentucky pharmacy providers. PBMs determine the amount that pharmacies will be reimbursed for each medication dispensed with no oversight from Kentucky Medicaid and often with no oversight from the MCO. PBMs, who own pharmacies and are direct competitors with independent pharmacies, are allowed to determine what the independent pharmacies are paid per drug. PBMs can require that a Medicaid recipient must purchase a drug from the PBMs mail order pharmacy with no oversight from DMS.

In 2016, Senate Bill 117 recognized that three years after the passage of Senate Bill 107, PBMs were not supplying an updated list of what PBMs would pay pharmacists to dispense each medication. Senate Bill 117 clarified that PBMs were to supply pharmacists with the list in a readily available format. Senate Bill 117 required PBMs to notify pharmacists if they had been underpaid. Senate Bill 117 required PBMs to be licensed by the DOI to conduct business in Kentucky. She stated that the MCOs' and PBMs' profits should not come at the cost of putting local pharmacies out of business.

Chris Harlow, Pharm.D, President, Kentucky Pharmacists Association, St. Matthews Pharmacy, stated that the passage of Senate Bill 117 creates greater transparency in generic drug pricing and will soon be fully implemented. The PBMs continue to cost taxpayers, patients, and pharmacists money and cause for concern. He is asking for immediate action to address chronic under reimbursement by MCOs with CVS Caremark as their PBM. PBMs determine reimbursement rates for retail pharmacists, establish formularies, and determine which drugs require prior authorizations. Effective in January 2017, Senate Bill 117 required DOI to license PBMs and mandated additional transparency requirements so that pharmacists could have better knowledge of what they will be reimbursed when dispensing generic drug. PBMs are not complying with provisions of the statute. Dr. Harlow has not received notifications of reimbursement changes or dispensing fee changes that meet the requirements of Senate Bill 18, passed in 2016. He encourages DMS and DOI to strengthen oversight of MCOs and PBMs before more independent pharmacies have to close.

The Food and Drug Administration (FDA) does not recognize one definition of a specialty drug instead each of the PBMs determine which drugs are defined as a specialty drug. The PBMs prohibit retail pharmacies from fulfilling prescriptions for specialty drugs that are often high cost drugs and could be safely and effectively dispensed by retail pharmacists. Patients are required to have the high cost medication dispensed by a mail order pharmacy that is often owned by the PBMs. PBMs that are determining reimbursements are also the competition, no one entity should be allowed to participate on both ends of the transaction.

In response to questions from Senator Alvarado, Dr. Smith stated that pharmacists do not always know what the reimbursement will be at the time a claim is processed to fill a prescription. There are situations where a reimbursement is reduced after the drug is dispensed. There are a number of fees in clawbacks when a claim is adjudicated. Money is taken back from pharmacies as Direct and Indirect Remuneration (DIR) fees. CMS has established National Average Drug Acquisition Cost (NADAC) pricing. CMS has specified that between $9 and $13 is the cost of filling a prescription. She stated that is routine not to be notified of changes in reimbursements, pricing, or contracts.

In response to questions from Representative Benvenuti, Dr. Harlow stated that an independent pharmacist sees more surprises with reimbursements in the commercial business than in Medicaid. Dr. Smith stated that she still has fee-for-service Medicaid patients in eastern Kentucky. Independent pharmacies previously had one formulary and a set rate. Before 2011, if there was an issue with pricing and a maximum allowable cost (MAC) appeal was made, the appeal was answered within hours or days. Fee-for-service Medicaid has gone to NADAC pricing plus $10.64. Some MCOs now have a .35 cent dispensing fee which is unsustainable for independent pharmacists. Kentucky Independent Pharmacist Alliance (KIPA) was started with more than 520 pharmacists but 50 to 60 pharmacists have now closed their businesses. Many independent pharmacies are on the brink of closing because of the drop in reimbursements.

Alyson Roby, PharmD, CDE, Medica Pharmacy, stated that Medicaid patients represent more than 25 percent of her overall business. She has experienced a 105 percent drop in reimbursement from Passport. The day CVS Caremark took over as Passport's PBM, her reimbursement dropped 74.8 percent and her dispensing fee dropped 77.5 percent. Four of the five MCOs that are reimbursing below acquisition costs all have CVS Caremark serving as its PBM. The number of prescriptions that are reimbursed one dollar or less above the acquisition cost has increased, effectively eliminating the right to appeal. The acquisition cost does not include the cost of the vial, the label, the cost of submitting a claim for reimbursement, nor does it include labor costs associated with preparing and dispensing a drug. If she rejects the PBMs' contracts, she will lose the opportunity to provide care to patients in all the other health plans affiliated with the network, which could include the state employees plan and other major employer plans.

Dr. Roby stated that for a pharmacy to assist Medicaid patients with medication adherence, provide appropriate medication counseling, and other health care services necessary to improve overall health, it must receive adequate reimbursements from the PBMs to maintain necessary staffing levels. Spread pricing is simply the difference between what the health insurance plans pays for the drug and what the pharmacy is reimbursed for dispensing the drug. The average spread is between $8 and $10. Pharmacies are not able to determine what is being paid for a prescription claim until weeks or months after a claim has been submitted. The independent pharmacies' competitors are determining reimbursements for independent pharmacies. CVS Caremark owns a PBM, retail pharmacies, and a mail-order pharmacy. Other PBMs own mail-order pharmacies only. PBMs should not be allowed to participate on both sides of the transaction. Kentucky Medicaid should prohibit its MCOs from contracting with PBMs who own or operate a retail or mail order pharmacy to reduce apparent conflicts of interest. DMS should require transparency in generic drug reimbursement to include a reasonable dispensing fee. DMS should also conduct an audit of the PBMs to better understand if the taxpayers are saving money.

Trevor Ray, PharmD, Midway Pharmacy, Independent Pharmacist, stated that his pharmacies' Passport reimbursement above actual drug acquisition cost dropped 86 percent when CVS Caremark took over as the PBM for Passport. The dispensing fee dropped from $2 to .45 cents and the number of below cost reimbursement for generic drugs went from 4 percent to 32 percent. Passport claims are 25 percent of his overall business and approximately 80 percent of Passport claims are for generic medications. MAC appeals were filed with CVS Caremark, all of the appeals were denied, and then complaints were filed with DOI. DOI expressed to him that there was very little more it could do until proposed regulations went into effect. In Kentucky Medicaid, MCOs allow its PBMs to put pharmacies into an existing national network of plans. The only way an independent pharmacy can say no to Kentucky Medicaid is to drop out of the entire network.

He stated that the MAC lists being used by several MCOs that have CVS Caremark as its PBM, continue to reimburse pharmacies under cost on 30 percent to 50 percent of generic drugs. Senate Bill 117 clearly recognized that a pharmacist should never be reimbursed for less than the generic drug can be purchased for from a licensed wholesaler in Kentucky. CMS evaluates the pricing for drugs monthly and publishes the new pricing to be used as each drugs NADAC price. When CMS suggested NADAC pricing, it recognized that this new option was going to reduce drug reimbursement to very close to acquisition cost. CMS also advised that the dispensing fee would need to be increased to fairly and adequately reimbursement pharmacists for their professional services. Kentucky Medicaid adopted a dispensing fee for Medicaid fee-for-service within that suggested range of $9 to $13. Unlike Medicaid fee-for-service, under the jurisdiction of DMS, the MCOs through its PBMs are paying his pharmacy close to acquisition cost for the drugs, but continue to have a dispensing fee of .20 to .35 cents.

Dr. Ray referenced a review performed by many pharmacies which found that Passport, Aetna, and CareSource are reimbursing at or below NADAC without the adequate professional dispensing fee recommended by CMS. The MCOs and its PBMs are paying pharmacists based on an unsustainable model. PBMs will claim they save the MCOs money by administering pharmacy benefits, but no one seems to be able to verify the savings. Moving outpatient pharmacy benefits away from MCOs to the jurisdiction and authority of Kentucky Medicaid would enhance drug pricing transparency and stabilize reimbursements for all pharmacies.

In response to questions from Senator Carroll, Dr. Smith stated that West Virginia has carved out pharmacy benefits from its Medicaid managed care organizations. Dr. Ray stated that Texas redirected prescription benefits through PBMs and put 40 to 50 independent pharmacies out of business. DMS could contract directly with PBMs to eliminate going through MCOs and have direct oversight of PBMs. Prior to 2011, Kentucky Medicaid directly contracted with PBMs.

In response to questions from Representative Bentley, Dr. Ray stated that Medicaid contract language specifies that in order to have Medicaid MCOs and PBMs operate that there should have specific BIN and PCN numbers. The intent would be that one could discontinue business with one of the MCOs or PBMs without discontinuing business with the other MCOs or PBMs.

Presentation on Pharmacy Benefit Manager Process and Legislative Initiatives

Melodie Shrader, Senior Director, State Affairs, Pharmaceutical Care Management Association, stated that PBMs are health care companies that contract with insurers, employers, and government programs to administer the prescription drug portion of the health care benefit. PBMs work with insurers and employers to perform a variety of services to ensure high-quality, cost efficient delivery of prescription drugs to consumers. PBMs offer a set of core services to clients designed to contain drug expenditures such as; claims administration, pharmacy network management, negotiate and administer product discounts, mail-service pharmacy and specialty pharmacy services. PBMs save plan sponsors and consumers an average of 35 percent compared to expenditures made without pharmacy benefit management. The plan sponsor or MCOs have the final say when creating a drug benefit plan with PBMs. The number of independent pharmacies has not decreased but increased at a rate higher rate than chain retail pharmacies in Kentucky.

Independent pharmacies contract with PSAOs to provide many services such as; negotiating with PBMs for reimbursement rates, audit services, purchasing, office services, and marketing. PSAOs allow the independent pharmacies to be competitive with a chain drug store. MAC lists standardize the reimbursement amount for identical products from various manufacturers, regardless of each manufacturer's price. PBMs develop and maintain its own confidential MAC lists based on proprietary methodologies. In Senate Bill 17, PBMs are required to be licensed at DOI. The commissioner has authority to suspend, revoke, or refuse to renew a license. Since the enactment of Senate Bill 117, pharmacists have been utilizing the maximum allowable cost appeal process with pharmacy benefit managers.

In response to questions from Senator Meredith, Ms. Shrader stated that PBMs compete with each other and information is proprietary regarding reimbursements. PBMs must go into the marketplace to survey prices, review invoices, and evaluate the costs that manufacturers are selling products. Each company must come up with a pricing mechanism that fairly represents the acquisition costs plus an additional margin. There is an external appeal processes so that if an independent pharmacy was reimbursed under the MAC list and not the acquisition cost then the independent pharmacy could appeal to the DOI. The law requires that with any changes or appeals that are justified, the drug price is immediately and retrospectively corrected. PBMs must reimburse the pharmacy that made the appeal and the entire network. If a MAC list did not accurately reflect the market price then all of the pharmacies within the network would appeal.

In response to questions from Representative Gooch, Ms. Shrader stated that PBMs cover approximately 256 million Americans. The PBMs' tools and services used are standard with government plans, Medicaid, Medicare, as well as private employers. Independent pharmacies are partners to the PBMs. PBMs need independent pharmacies in its network to help provide services to the clients.

In response to questions from Representative Moser, Ms. Shrader stated that it could be possible for Kentucky Medicaid to work directly with only one PBM. However, that would need to be studied by DMS because that pricing model may not be the most cost effective.

In response to questions from Representative Bentley, Ms. Shrader stated that PBMs do make money in administration fees. Each of the PBMs' clients dictate in contract how PBMs are managed or how transparent PBMs will operate. Some clients come with a defined number of dollars but want to make sure benefits and employees are covered. PBMs are a vendor for the client. In regards to using a trade name drug with an incentive rebate or a generic drug, determinations are made by the client.

In response to questions from Senator Alvarado, Ms. Shrader agreed that PBMs should abide by the state laws as written.

In response to questions from Senator Carroll, Ms. Shrader stated that the MAC list is designed to encourage efficient shopping. PBMs would have to present data that shows when the claim was processed that particular drug could be bought at the PBMs' MAC price. Drug prices change frequently because it is considered a commodity. Kasey L. Alford, PharmD, President, CEO, Alford's Pharmacy and Drive-Thru, stated that it took months to have one prescription appealed and justified through DOI. Since August there have been dramatic cuts in Passport prescription reimbursements. To cover all overhead, independent pharmacists are requesting to use a NADAC Plus model. In an appeal, PBMs do not have to show where the drug could be purchased for MAC price.

Patrick O'Connor, Deputy Commissioner of Policy, Department of Insurance, stated that Medicaid and MCOs' appeals make up the majority of the appeals received. Since September, the anticipated number of appeals is in the thousands. The main issue of the appeals is the reimbursement from Medicaid MCOs or PBMs. To appeal a reimbursement, DOI has a form on its website that pharmacists can fill out and submit by prescription. The form requires specific information regarding the prescription, the National Drug Code (NDC), the pricing that was used, the date of fill, MCOs at issue, and the plan at issue. DOI is improving the communications between all groups involved to facilitate a process that works more efficiently.

In response to questions from Senator Carroll, Deputy Commissioner O'Connor stated that the pricing methodology that is used by PBMs in reimbursement is defined in KRS 304.17A-162. PBMs can disclose the sources of information used to create the MAC list. However, the methodology or how the PBMs use those sources when coming up with numbers on the MAC list is not disclosed, it is considered proprietary and confidential information. In determining the price for a drug, there could be multiple generics of the same drug, multiple manufacturers, purchased at different price levels on the date of fill. The pharmacist is going to use the cheapest generic that works with the plan MAC list.

In response to questions from Representative Benvenuti, Ms. Shrader stated that CVS Caremark does not have a direct contract with DMS but does have contracts with MCOs in Kentucky. Kentucky is an any-willing-provider state and contracts have to be built on market based principles. The MCOs have a MLR required by contract, at least 90 percent of every dollar must be paid out in claims. If the price to providers increases then DMS will have to increase the amount of dollars available.

In response to questions from Senator Meredith, Deputy Commissioner O'Connor stated that there are multiple MAC lists for each health benefit plan, for Medicaid, and for the MCOs.

Presentation on Pharmacy Benefit Managers, Managed Care, and Legislative Oversight

Rosmond J. Dolen, Kentucky Association of Health Plans, stated that the PBMs' responsibilities include; processing pharmacy claims, developing drug formularies, operating programs to manage utilization, operating mail order systems, creating and managing pharmacy networks, managing the appeal process, negotiating and collecting supplemental rebates. In general, the United States does not regulate prescription drug prices. A statutory provision in the Medicaid program allows states to use many of the same prescription drug management tools available to insurers in the private sector. In a study from the Menges Group in April of 2015, found $2.06 billion net savings in state and federal expenditures in Federal Fiscal Year (FFY) 2014 for states whose Medicaid contracts included pharmacy benefits.

In response to questions from Senator Meredith, Ms. Dolen stated that she is not aware if the PBMs are required to meet a 90 percent MLR. The PBMs are held to an aggregate number. She is not aware who provides compliance accountability to PBMs. MCOs and insurers in the state are partners in providing access and quality of care to the Medicaid members. PSAOs contract on behalf of the independent pharmacies entering into agreements with PBMs.

In response to questions from Senator Carroll, Richard Ponesse, Senior Director of Trade and Finance, Industry Analytics, CVS Caremark, stated that the only requirement regarding the percentage of money received from MCOs to fill prescription benefits, is the open and free market. CVS Caremark is competing against other PBMs to win business. CVS Caremark agrees that it has the majority of the pharmacy business because it provides the lowest net cost to the plan sponsors who hire CVS Caremark. He does not know the total Medicaid profit margin in Kentucky. He is confident that if DMS eliminates PBMs it will increase pharmacy costs. On average, CVS Caremark reimburses large chains 20 to 25 percent less than independent pharmacies.

Adjournment

There being no further business, the meeting was adjourned at 4:51 PM.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

October 17, 2017

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, October 17, 2017, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Phil Moffett, Co-Chair; Senators Julian M. Carroll, Rick Girdler, and Christian McDaniel; Representatives Larry Brown and Will Coursey.

Guests: Ms. Janice Tomes, Deputy State Budget Director; Mr. Scott Aubrey, Director, Real Properties; Mr. Ryan Barrow, Executive Director, Office of Financial Management; Mr. Eric Rockhold, Bank of America Merrill Lynch; Mr. Chip Sutherland, Hilliard Lyons; and Mr. Scott Cox, Chairman, Louisville Arena Authority.

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

Approval of Minutes (September 19, 2017)

A motion was made by Senator Carroll to approve the minutes of the September 19, 2017 meeting. The motion was seconded by Representative Brown and approved by voice vote.

Information Items

Ms. Halloran reported three information items for review: the quarterly status reports on capital projects from the Administrative Office of the Courts, the Finance and Administration Cabinet (with the Commonwealth Office of Technology reporting independently), and the universities managing their own capital construction programs; the Semi-Annual Report of the Kentucky Asset/Liability Commission; and Moody's Investor's Service ratings review of the Commonwealth's public postsecondary institutions. No action was required.

Project Report from the University of Kentucky

Ms. Halloran said the University of Kentucky reported the purchase of a digital x-ray totaling $259,873 in restricted funds for orthopedic and sports medicine patients at UK's Good Samaritan Hospital.

Project Report from the Finance and Administration Cabinet

Ms. Tomes submitted three projects from the Department of Military Affairs. The first was for $1,273,737 for the Range Operations Expansion (about 3,800 square feet for a central security check point) at Wendell H. Ford Regional Training Center in Greenville, Kentucky; funded with 100 percent federal funds.

The second was for $1,056,245 for the Record Holding Facility (archival and storage of military records for the Kentucky National Guard and mail operations) at the Boone National Guard Center in Frankfort, Kentucky; funded with 75 percent federal funds and 25 percent agency restricted funds from the Combined Clothing Distribution Facility (CCDF). The facility will consist of administrative and storage areas, mechanical/electrical room, communications closet, HVAC, and plumbing and lighting systems.

The third was for $1,379,097 for the Interior Renovation Wellman Armory at the Boone National Guard Center; funded with 75 percent federal funds and 25 percent agency restricted funds from the CCDF.

A motion was made by Senator Carroll to roll the three projects into one roll call vote. The motion was seconded by Representative Moffett and approved by voice vote.

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

Ms. Tomes reported one pool project in excess of $600,000 for Minor's Creek, Owen County from the Fees-In-Lieu-Of (FILO) Stream Mitigation Projects Pool. The $4,442,429 was 100 percent funded from the Kentucky Wetland and Stream Mitigation Fund pursuant to KRS 150.255. This project is a headwater stream restoration with rock/wood structures to reduce erosion. The property was acquired and permanently protected via deed restrictions as required by the U.S. Army Corp of Engineers, which has authority over the FILO program. No action was required.

Lease Report from the Finance and Administration Cabinet

Mr. Aubrey reported two Cabinet for Health and Family Services (CHFS) renewals for privately leased space with an annual cost exceeding $100,000. Both leases will be renewed under the same terms and conditions: Franklin County, $7.55 per square foot for 15,465 square feet of office space through June 30, 2021, and Hardin County, $9.25 per square foot for 31,534 square feet of office space, through June 30, 2022.

A motion was made by Representative Moffett to roll the lease renewals into one roll call vote. The motion was seconded by Representative Brown and approved by voice vote.

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

Mr. Aubrey lastly reported one lease modification for the Department of Alcoholic Beverage Control in Franklin County to complete safety, security, and ADA improvements. The one estimate obtained was for $15,000 from Michael B. Oerther. The cost will be amortized to the current lease term expiring June 30, 2019. No action was required.

Report from the Office of Financial Management

Mr. Barrow submitted two new conduit bond issues for approval. The first was the Kentucky Economic Development Authority (KEDFA), Louisville Arena Project Refunding Revenue Bonds, Series 2017 (Louisville Arena Authority, Inc.) in an aggregate principal amount not to exceed $450 million. The bond issue will restructure KEDFA's current outstanding bonds issued on behalf of the Louisville Arena Authority (LAA) and be issued in three series (Series 2017A, Taxable Series 2017B, and Taxable Subordinate Series 2017C). Pricing is tentatively scheduled for mid-November. Revenue sources for debt service include tax increment financing (TIF) revenues, payments from Metro Louisville as well as contractually obligated and event-generated income through the lease agreement with the University of Louisville Athletic Association (ULAA).

In response to questions from Senator McDaniel, Mr. Sutherland clarified that there are present value savings with a traditional refinancing. Rather than a traditional financing, the submitted transaction was a restructuring, where the maturity schedule is lengthened to lower debt service payments, to avert a potential default [due to the impending increased payments on the current bonds]. Mr. Sutherland confirmed that the term of a pilot TIF was extended in order to execute the restructuring.

Senator McDaniel voiced his hope that potential impact on ticket sales due to recent events would have minimal effect on overall revenues as ticket sales are a small percentage of those revenues. He stated that he thought that Dr. Postel was on the right path; that Dr. Postel had taken some good steps for the University of Louisville (UofL); and that, although there may be pain in the short term, steps taken over the life of these bonds will prove to be worthwhile.

In response to a question from Senator Carroll, Mr. Sutherland referenced the efforts of the legislative body [House Bill 330] as well as the UofL's and Metro Louisville's commitment in extending and increasing payments. He said that all of partners: the legislature, Metro Louisville, UofL, LAA as well as the sponsors have assisted and that the goals were to enable the Arena, a state asset, to generate revenues to pay debt service; to invest in the Arena for it to remain a top-tier facility; and to complete the refinancing.

In response to a question from Senator Carroll, Mr. Rockhold stated that current market conditions are very favorable and there are potential improvements in the credit ratings and in the positioning in the marketplace.

In response to questions from Representative Moffett, Mr. Rockhold mentioned that the market continues to be very good for transactions at the lower end of the ratings scale. He referenced meetings with Assured Guaranty, a credit enhancement provider, and its potential participation in the forthcoming transaction as it insured the current outstanding bonds. With credit enhancement, the transaction could proceed without an improved credit rating.

In response to questions from Representative Moffett, Mr. Cox said that UofL agreed to pay $2.42 million in cash per year in addition to its annual current payments for rent and its percentage of concessions, etc. for the life of the bonds. In addition, LAA was hosting the UofL women's volleyball team at a loss of $80,000 a year and the team moved out of the Arena. Therefore, there will be a $2.5 million dollar annual swing in LAA's favor, regardless of what happens with the NCAA. In a worst case scenario, with UofL going on the "death penalty" and unable to compete for at least a season, Mr. Cox said that, while not an expert on UofL, he believed that UofL could continue to make the $2.42 million annual payment.

LAA has been reassured by individuals, including attorneys representing schools and individuals before the NCAA, that the death penalty will not occur. The NCAA is believed to factor UofL's decisive personnel moves, demonstrating strong institutional control. Mr. Cox stated that he did not know that Adidas's new $160 million sponsorship contract was in the works when the $2.42 million annual payment was negotiated with UofL.

In response to a question from Senator McDaniel, Mr. Cox said that there was an agreement with the Kentucky State Fair Board (KSFB) in which $100,000 per year would be paid [towards the $1,471,900 settlement negotiated in May 2013; the amount remaining, $921,900, will be paid from bond proceeds] for KSFB's lost management fee when AEG took over management of the Arena. Mr. Cox stated that his predecessor believed the agreement settled everything and that there was an [informal] Attorney General's opinion that nothing further was owed. Mr. Cox said that the issue was not discussed during his approximately 14 month tenure on LAA's Board.

Senator McDaniel commented that, based on his conversations with KSFB, KSFB believed LAA's obligations are both lost revenue and owed management fees and that KSFB doesn't view the matter as settled.

Senator Humphries stated that the committee appreciated the time those testifying took in clarifying the transaction.

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

The second new conduit bond issue was for the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (Henry Green Apartments Project), Series 2017. The project is located on Jefferson Street, Louisville, Kentucky. The anticipated date of the unrated private placement is in November with net proceeds of about $10.5 million. Mr. Barrow stated that as a conduit transaction, the Commonwealth's balance sheet will not be extended and referenced information about the conduit borrower in the meeting materials.

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

Mr. Barrow reported one previously approved conduit note issue, the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Note (Bristol Bluffs Project), Series 2017. Bristol Bluffs is located in Louisville, Kentucky. The date of the unrated private placement with Citibank was September 7 for about $35 million. No action was required.

Mr. Barrow reported thirteen school district bond issues submitted with School Facilities Construction Commission (SFCC) debt service participation. Four of the bond issues were to finance projects in the following school districts: Clay County, Harlan Independent (Harlan County), Paintsville Independent (Johnson County), and Rockcastle County; 42 percent SFCC funded for a principal amount of around $13 million. Except for Clay County, which passed a recallable nickel tax in 2017; no tax increases were necessary to finance the projects.

There were nine refunding bond issues: Barren County, Boone County, Boyle County (2), Caldwell County, Estill County, Hardin County, and Ohio County (2); about 20 percent SFCC, 75 percent local, and 5 percent urgent need. The estimated total savings is $1.4 million with a principal amount of around $29.5 million.

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

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

Ms. Halloran reported the submitted local school bond issues: Bardstown Independent (Nelson County), Clinton County, Hardin County, Henderson County, Newport Independent (Campbell County), and Knox County. Two of the issues were refundings. Three of the four issues for new projects, two for district-wide energy improvements and [one for the purchase of a building to house the Area Technology Center and superintendent offices] did not involve tax increases. The renovations to the intermediate and high school in the Newport Independent School District did involve the passage of a recallable nickel tax in 2017. No action was required.

Updated Debt Issuance Calendar

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

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

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

October 17, 2017

Call to Order and Roll Call

The 4th meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, October 17, 2017, at 1:00 PM, 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; Representative Daniel Elliott, Co-Chair; Senators Alice Forgy Kerr, Gerald A. Neal, and Mike Wilson; Representatives Derrick Graham, and Steve Riley.

Guests: Dr. Bart Liguori, Research Division Director, Office of Education Accountability (OEA); Dr. Deborah Nelson, Research Analyst, OEA; and Wayne Young, KASA.

LRC Staff: Joshua Collins, Lauren Busch, and Chris White.

Presentation: High School Indicators of Postsecondary Success

The Office of Education Accountability presented a report on High School Indicators of Postsecondary Success in Kentucky. The report, approved by the EAARS subcommittee as part of the 2017 Research Agenda, shared indicators of academic progress in high school linked to post-graduation success.

OEA staff identified themselves as Dr. Bart Liguori, Research Division Director, and Dr. Deborah Nelson, Research Analyst.

The report on High School Indicators of Postsecondary Success in Kentucky documents outcomes of high school students with postsecondary degrees aligned with salaries and indicators associated with postsecondary success. The indicators relate to goals for students pursuing postsecondary education or immediately entering the workforce upon graduation. Other factors impacting postsecondary outcomes are motivation, student engagement, family income, and gender. Dr. Nelson said Kentucky's yearly school report cards disclose percentages of high school graduates who are considered college- and career-ready.

Higher ACT scores are a strong predictor of success for students seeking college degrees, but have relatively less impact on the wages of graduates who enter the workforce without earning a college degree. This is a result of various Career and Technical Education (CTE) courses being associated with higher wages for graduates immediately entering the workforce. The study revealed a student's Grade Point Average (GPA) and attendance likely reflects student engagement and motivation and predicts postsecondary success more than can be known from test scores alone. ACT scores of 21 or above are indicators associated with earning a college degree. The study found students entering the workforce without a college degree, averaged 15 on their ACT score. Students with a GPA of 3.5 or above are four times more likely to earn a college degree than a graduate with the same ACT test score but a lower GPA. Graduates who entered the workforce without earning a postsecondary degree and who maintained good attendance and behavior in high school are more likely to earn higher wages than a graduate with similar test scores and poor attendance.

The relationship between high school indicators and postsecondary outcomes is affected by student demographic areas. A college-ready graduate from a lower-income family, as measured by the Free and Reduced Price Lunch (FRPL) program, is less likely to earn a degree than a college-ready peer from a higher-income family. A female graduate with a CTE that proceeded into the workforce was likely to earn less than a male graduate with the same preparation. Beyond test scores, measures of student engagement and motivation have a strong influence on outcomes. Independent of high school indicators, demographic factors such as gender, family, and poverty have an influence on outcomes.

Dr. Nelson said workforce demands shaped the analysis of data in this study. She discussed the background data, the design of the study, the relationship between high school indicators and postsecondary education, the relationship with workforce outcomes, and the study's major conclusions. Dr. Nelson said the report findings are not a review of any particular policy or program but may prompt the committee to propose future study ideas related to particular policy areas.

In the last decade, educational policies have focused on strengthening the connection between what happens in high school and the skills needed to be successful in the workforce, although debate continues about the level of continuing education required for jobs in the future. Dr. Nelson said the consensus is most highest-wage jobs demand an associate's degree or above. By the most aggressive labor market projections, Dr. Nelson said up to two thirds of jobs in the future will require some type of postsecondary education while one third of projected growth rate jobs are not likely to require a postsecondary degree. She said Kentucky lags the nation at all levels of postsecondary educational attainment and state leaders have pushed to increase the percentages of high school graduates earning college degrees, not only for the economic benefit of individuals but the ability of the state to attract potential higher-wage industries. With these indicators in mind, Dr. Nelson said the study focuses primarily on two indicators of postsecondary success - the rate at which graduates earn an associate degree or above and the wages of high school graduates entering the working with no postsecondary degree.

The data and design of the study focused on indicators and outcomes previously mentioned. The study analyzed college-degree data for Kentucky students who earned degrees as well as graduates who earned a degree in almost every two- or four-year institution nationwide. Capturing 90 percent of workers, the wage data does not include individuals outside of Kentucky or individuals who were self-employed, military or federal employees working inside Kentucky. Dr. Nelson said the full report includes a brief, preliminary analysis of the relationship between high school indicators and incarceration, although it is not covered in the presentation.

The study focused primarily on outcomes of the graduating class of 2010 and included any student who was ever enrolled in that class and included more than 50,000 students in the analysis. The report analyzes indicators of students as early as tenth grade and on outcomes found in degree and wage data through 2016. Eighty-three percent of the class was included in data for at least one of the outcome indicators included in the report. Dr. Nelson said Chapter 1 provides a broad summary of the outcomes.

The preliminary study examined the class of 2015 and the associated high school indicators back through the 8^{th} grade. This class was specifically included to look at the college- and career-ready measures implemented in 2012 and included first semester grades in Kentucky colleges compared with wages of non-college students.

Data used for this study was provided entirely by the Kentucky Center for Education and Workforce Statistics (KCEWS), a nationally recognized longitudinal data system linking K-12 data from the Kentucky Department of Education (KDE) with postsecondary data available from a variety of agencies and entities. Using unique identifiers, KCEWS staff linked data from various sources and ensured that no individual identifiable data was shared. The analysis of the study was prepared from reports published by KCEWS and are available on its website. Dr. Nelson said every figure and table in today's presentation was a collaboration of agencies and the KCEWS Research and Programming staff. She said through the KCEWS system, the General Assembly has access to data available in few other states, and may provide information to be considered for future study topics.

The analysis of average wages from the Class of 2010 included students who were working in Kentucky in 2016 and students who never enrolled in college as well as students who had earned a degree and returned to the workforce. Approximately 60 percent of the Class of 2010 was included in this analysis. Consistent with existing State and National data, wages increased at each level of educational attainment. At entry level positions, individuals with bachelor degrees earned more than twice as much as students who did not graduate from high school.

In reviewing the percentage of students who earned degrees associated with higher wages and compared the percentages to Kentucky's current workforce demand, 22 percent of the Class of 2010 had earned a bachelor's degree or above by 2016. An additional 4 percent had earned an associate's degree, for a total of 26 percent. A total of 6 percent of students had earned workforce certificates and half of this group earned an associates or bachelor's degree. Dr. Nelson said the rates are approaching the workforce demand but the demand estimates are based on minimum requirements and aspires to attract higher industry wages to the state. Based on census data with the same college degree, the Class of 2010 did not earn degrees at a rate that will substantially narrow the educational attainment gap between Kentucky and the nation. She said given the aspiration of many policymakers to close or narrow the gap, these results may lead to possible future studies.

The ACT college readiness test is taken by all 11^{th} Grade Kentucky students. It was the only standardized test for which data was available for the entire class in this study to calculate high school indicators. Kentucky's CPE has established ACT readiness benchmarks with scores of 18 in English, 19 in math, and 20 in reading which allow students to begin taking credit-bearing college classes. Under Kentucky's current accountability system, a student who meets benchmarks in all three subjects is considered college ready.

Although ACT scores range from 1 to 36, 99 percent of the students represented scores between 11 and 35. The average ACT score for the class of 2010 was 18 and reveals decreasing percentages to the maximum score of 35. Dr. Nelson said the reason for the odd distribution is that all Kentucky 11th grade students are required to take the ACT whereas other states only require students take the ACT if they plan to attend college.

For the Class of 2010, students who enrolled in college immediately following graduation earned a degree within six years. The graduation pace accelerated greatly as ACT composite scores improved, with 90 percent of students earning a degree within six years. Fifty percent of students with a composite score of 21 or more were likely to earn a college degree and students scoring below 21 are likely to graduate but at a slower rate.

Looking at the predictive power of additional college readiness measures introduced in 2012, high school students could demonstrate college readiness and begin take credit-bearing classes without remedial work by achieving Council on Postsecondary Education (CPE) benchmarks or by taking CPE approved college placement tests such as Kentucky Online Testing System (KYOTE) or COMPASS, a set of college entrance exams which were phased out and are no longer administered.

Students who did not meet reading and math ACT benchmark administered in the 11th grade were required to take transitional courses or receive intervention to be recognized as a high school graduate. Since 2012, an increasing number of students who did not meet ACT benchmarks have been deemed college ready prior to high school graduation as a result of retaking the ACT test or meeting benchmarks on COMPASS OR KYOTE tests. This created dramatic reductions in college remediation rates and substantial savings to college students.

The Class of 2015 students were college-ready based on various measures. For students who enrolled in a Kentucky 2- or 4-year institution, earned a first semester of 2.0 or above, and were college ready before graduation, 80 percent of students meeting these three benchmarks on the ACT earned a first semester GPA of 2.0 or above. Students who met two benchmarks had similar outcomes and the percentage of students who met only one ACT benchmark decreased gradually. Less than 50 percent of students who achieved no ACT benchmarks in high school but maintained a GPA of 2.0 or above during their freshman year of college were no better than students who were not college ready at all.

While previous data was provided in the beginning of the college freshman year, OEA used 2010 data to project the likelihood that 2015 graduates who were college ready by various measures will ultimately earn a degree. Students with an average ACT score of 22.3 had 57 percent eventually earn a college degree. Sixty-nine percent of students who met all three ACT benchmarks and averaged 24.9 ACT composite score earned a degree. Only 25 percent of students who were deemed college ready but did not meet any 11th grade ACT benchmarks and had an ACT composite score of 15.9 earned a college degree within six years.

Based on this data, OEA's concern is that college-readiness data for students who demonstrate readiness based primarily on the ACT versus other measures are not directly comparable. Although the data that appears on the school report cards may change once the new accountability system is implemented, OEA suggested two recommendations related to the reporting of college readiness data on state report cards.

OEA recommended in reporting college readiness measures on state, district, and school report cards, the KDE should indicate the number and percentage of students who are considered college ready due to meeting benchmarks in each of the required subject areas of reading, English, and math on the ACT; those who are college ready on a combination of ACT tests and placement tests approved by the CPE; and those who are college ready on CPE-approved placement tests alone.

OEA also recommended the KDE should provide to the Kentucky Center for Education And Workforce Statistics data that indicates whether students were considered college ready because they met benchmarks in each of the required subject areas of reading, English, and math on the ACT; met benchmarks on a combination of ACT tests and placement tests approved by the (CPE); or met benchmarks on CPE-approved placement tests alone.

Dr. Nelson said data presented shows the power of the ACT test to predict college outcomes, the outcomes based on standardized tests changed when GPA data was included. A percentage of all students who had high ACT composite levels was compared to students who had a GPA of 2.5 to 2.9. Students who maintained a GPA of 3 to 3.49 and the percentage of students with high GPA's of 3.5 or above earned college degrees at a substantially higher rate. OEA showed that all students become likely to graduate with an ACT composite of 21 and students with a GPA of 3.5 or above became likely to graduate with an ACT composite of 18. The average ACT score for 2017 in Kentucky was 20. Depending on how this particular class applied themselves in high school, a large percentage may be prepared to earn college degrees.

Dr. Nelson said that 2010 graduates who earned an Associate's Degree were 32 percent females and 21 percent males. Consistent with national data, female graduates earned degrees at a rate of one and one-half times the rate of male graduates. This disparity is not explained since the percentage of males and females deemed college ready are approximately the same rate. She said the disparity in degree earning rates possibly exists because the labor market is an influencing factor. As previously noted, male graduates who entered the workforce without earning a degree are much more likely to earn a living wage than female graduates.

Also consistent with national data, Asian students earned degrees at the highest rate at 49 percent, and black students earned degrees at the lowest rate at 15 percent. As shown in the report, Dr. Nelson said black and Hispanic students who were college ready earned degrees at approximately the same rate as white students; however, this is not true for FRPL students. Students who were not FRPL earned degrees at more than three times the rate of FRPL students. This is not explained entirely by the college readiness of FRPL graduates.

Dr. Nelson compared the ACT composite as linked to FRPL students. The six-year graduation rate of students with the same ACT composite scores who were not FRPL students shows a difference as much as 20 percentage points in the graduation rates of these two groups of students with similar ACT composite scores. She said if 2010 FRPL graduates had earned college degrees at the same rate as their similarly qualified non-FRPL peers, more than 2,300 additional students would have earned a degree. These differences have substantial economic consequences for individual students and the state.

FRPL students working in 2016, as grouped by the ACT composite scores, revealed those without a college degree earned substantially lower wages as compared to a graduate's earning at every ACT composite range, but is especially great as a percentage of income for the lower scoring students with an ACT composite of 14 or less. Using these wage premiums as the basis for calculation, if FRPL students had earned degrees at the same rate as similarly qualified non-FRPL students in 2016, the may have earned combined over $13 million in additional wages.

Dr. Nelson discussed the relationship between high school indicators and the workforce outcomes for high school graduates with no postsecondary degree. Regarding attendance, wages of high school students who were absent from school from a low of zero to nine days to a high of 50 days and above decreased substantially for students as absences increased. Workers who were absent nine days or less in high school earned one and one-half times more in 2016 than workers who are absent 50 days or more.

Dr. Nelson said students with good attendance are much more likely to have positive academic outcomes. The data provided indicated attendance is associated with salary beyond its relationship with academic outcomes. A likely explanation is that students with poor attendance in high school are less consistent in the workforce. The full report shows 2016 graduates who worked all four quarters have substantially higher wages than those who do not. The average four-quarter worker who did not graduate from high school is earning a living wage. Over half of the students who were absent 50 or more days were working all four quarters compared to more than 75 percent of students who were absent nine days or less.

In addition to poor attendance, poor behavior is associated with lower salaries. Salaries decrease substantially for students with law violations and modestly for board violations. The report grouped student behavior indicators into positive and negative groups. Students identified with positive behavior indicators were absent nine days or less and had no board or law violations. Students with negative behavior indicators include those who exhibit chronic absences of 18 or more days and had one or more board or law violation.

The average wages of 2010 graduates with no college degree or credentials by 11th grade indicates a substantial association between behavior indicators and salaries, even for students with similar academic achievement based on the ACT test. In comparison, average wages by ACT composite scores for students without postsecondary degrees who were working in 2016 exposed an increase for students with an ACT score of 14 or below to those with 15 or above. There is little or no increase in average salaries for students with ACT scores higher than 15, a sharp contrast with the relationship to students with college degrees previously shown. The average salary for students with positive behavior indicators is higher at all salary levels and negative student behavior indicators show lower salaries. Students with positive behavior indicators, even students with similar ACT scores, could earn up to 25 percent more in salary. Regarding the ACT distribution, 25 percent of the class fall in the group of ACT scores of 14 or below.

Dr. Nelson explained the association between Kentucky's career-ready measures and wages of graduates working with either a postsecondary degree or certificate. To be considered career ready, students must complete a sequence of three specific pathway CTE preparatory courses, a technical component demonstrating skill or an approved KOSSA certificate, and an academic component as demonstrated by WorkKeys or military ASVAB tests. OEA included a preliminary analysis on all three components.

The average wages by ACT composite for students who graduated in 2010 and did not complete a CTE preparatory course were 25 percent lower than students who completed the course in the two lower ACT groups. Not much difference was found in the other levels of the ACT composite scores. The substantial wage premium at each level of achievement is more significant for students with an ACT composite of 14 or less. Twenty-five percent of students fell in this group. Despite the notably high CTE wage premium for students with a composite score of 14 or less, only one-third of graduates who were working in 2016 had completed a CTE course. There was no notable difference in college graduation rates among those who had completed CTE preparatory courses and those who had not.

In a review of graduates who completed CTE courses and immediately entered the workforce in 2016, 35 percent were White, 24 percent were Hispanic graduates and 18 percent were black. This is associated with differences among workforce regions in the percentage of graduates who completed CTE courses. The Kentuckiana Region, which includes Jefferson County and has the greatest number of black students, had the lowest rate of CTE completion in the state. Although all groups had similar education, Hispanics earned $6,236, more than double the premium of $3,042 for white graduates and over two and one-half times the premium of $2,427 for Black students. Dr. Nelson said the race-associated differences in the wage premium is unexplained although it is possibly due to a smaller percentage of Hispanic students being located in data for 2016.

With nearly equal percentages of male and female graduates completing a CTE preparatory course and no college degree or credential, the CTE premium for male graduates was nearly six times more than their female counterparts with the same educational criteria.

Gender-based differences of 2010 high school graduates linked lower-wage sector job wages as half of higher-wage sector job. This was explained in part by workforce sectors in which females and males are more commonly employed. Although both genders had no college and similar education, female workers were 1.5 times more likely than male graduates to work in lower-wage sectors such as food services, health services, and administrative support whereas male graduates were 2.4 times more likely to work in higher-wage sectors including construction, transportation, and manufacturing. Average wages of 2015 graduates earning various levels of CTE credentials but no college degree earned 16 percent more than non-CTE students. Graduates who were career ready earned an additional 20 percent more than those who completed CTE preparatory sequences but were not deemed career ready.

Dr. Nelson said while the 11th grade ACT is a powerful predictor of success for college-going students, higher ACT scores are less critical for workforce success of non-degreed graduates, while CTE credentials are associated with higher wages, especially for students with ACT scores 14 or less.

Dr. Nelson said when compared, degree data and wage data for non-degree graduates suggests that high school priorities may differ based on student's postsecondary goals. The study does not include a review of Kentucky's high school curriculum and graduation requirements; however, based on the findings of the study, OEA supports KDE's announced intention to review high school graduation requirements, which led to Recommendation 3.1

Recommendation 3.1 states the Kentucky Department of Education should examine the minimum high school graduation requirements outlined in 703 KAR 3:305 Section 2 to determine whether those requirements offer local districts and schools sufficient flexibility to tailor high school programs to meet the needs of students with different postsecondary goals.

Dr. Nelson summarized OEA's findings for increasing the rate at which Kentucky students earn postsecondary degrees. She said the transition to college readiness during a student's senior year is too late for many students. Students with interest in or potential to attend college must be challenged to meet rigorous standards earlier in high school, by the ACT or by meeting academic standards by earning a 3.5 or higher. Many qualified Kentucky students have not completed college degrees, especially students from lower-income families and male students, not only for the class of 2010, but also for previous and succeeding classes. These individuals are potential targets for policy initiatives aimed at increasing college graduation.

Relating to preparing graduates to enter the workforce without a degree, it is important to understand the apparent disparities in access to CTE education among student groups and regions and to ensure that students, especially female and black students, are informed about the potential benefits of CTE in the workforce and the career pathways that are aligned with higher-wage sectors.

Dr. Nelson said engagement and motivation matter beyond raising test scores. This reflects discussions across the nation about the importance in education qualities such as soft skills, social and emotional learning, persistence, and grit. The policy implications is these discussions are not yet clear. While the Federal Every Student Succeeds Act (ESSA) permits states to include such measures in their accountability systems, researchers and policy makers have concerns about the reliability and validity of existing measures. However, flexibility in Kentucky's proposed accountability system may allow districts to experiment with new measures, some of which may address student engagement and motivation.

Approval of September 26, 2017 Minutes

On a motion by Senator Wilson and a second by Representative Riley, the minutes of the September 26, 2017, meeting were approved by voice vote.

In response to a question by Senator Neal, Dr. Nelson said the CTE completion rates in Jefferson County were not assessed by particular areas, but said this may be a future study topic which would allow OEA to delve more fully into this issue.

In response to a question from Senator Wise, Dr. Nelson said data on students who earned a masters or doctorate within six years is not available but an overwhelming percentage of students earned a bachelor's degree within six years. Dr. Nelson said the impact of students earning dual credits and enabling students to complete their degrees in less than six years is not readily available and said that as well could be a future study topic for the committee.

In response to a question by Representative Riley, Dr. Nelson said the closest study relating to foster children or students raised in a single-parent home is a study of homeless students in temporary or unsafe conditions; however, she said the majority of those students live with family members other than their parents. Dr. Nelson said students were grouped according to positive and negative outcomes. This group is a target for indicators that normally appear on the school report cards, but outcomes that caused a great deal of concern. Students from homeless or low-income families were incarcerated at a rate of three times higher than those of non FRPL. Dr. Ligouri said foster children, single-parent children, and children living with both parents is not historic information available in the data system. Representative Riley said family background has a significant impact on the academic achievement of student and their future success.

In response to a question from Senator Wise, Dr. Nelson said the number of students who became college ready without meeting benchmarks and their option of enrollment in a two- or four-year college can be provided. She clarified that many data points included in the KCEWS report are now configured so the information can easily answer many questions when the data is entered. Dr. Nelson added that the average ACT composite of those earning a 2-yr degree were lower than students seeking a 4-year degree.

Senator Wise stressed the need to identify students and educate them about options for career pathway for those not wishing to pursue a college degree.

In response to a question from Representative Graham, Dr. Nelson said although data identifying students in foster care was not crafted for this particular report, the existing data on the K-12 site can be entered into the KCEWS system and linked to gather specific data requests and will provide the information.

Responding to another question from Representative Graham, Dr. Nelson said the average salary for a Bachelor's Degree is $30,000. She said the best trend data on wage information is from KCEWS, which has post-graduation salary data for one-, three-, and five-year increments and increases thereafter. Over 70 percent of teachers who obtained a bachelor's degree or above and worked all four quarters, relating to regular attendance in the workforce which equals higher salaries. Because the differentiation of full-time or part-time teachers was not noted, the pay scale could be adversely affected if, in fact, more females were working part time. Regarding the maximum of 30 dual-credit hours, Representative Graham expressed interest in knowing if students are earning their bachelor's degree in a shorter time frame. Dr. Nelson said OEA does not have enough standard information available regarding dual credit classes for comparison at this time. OEA included six-year graduation rates to capture as many student outcomes as possible and that CPE has data available on 4-year and 6-year graduation rates.

On a motion by Senator Neal and a second by Senator Kerr, the report was accepted by voice vote.

Other Business

Senator Wise announced the next meeting will be Tuesday, November 21, at 1:00 p.m. The adoption of the 2018 OEA Research Agenda is anticipated to be adopted at this time, and reminded committee members to forward suggested study topics to Joshua Collins.

Adjournment

There being no further business, the meeting was adjourned at 2:15 p.m.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 4th Meeting of the 2017 Calendar

October 17, 2017

Call to Order and Roll Call

The 4th meeting of the Capital Planning Advisory Board was held on Tuesday, October 17, 2017, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Daniel Elliott, Co-Chair; Senator Whitney Westerfield, Representative DJ Johnson; Charles Byers, John Chilton, Carole Henderson, Stephen Knipper, William M. Landrum, Mark Overstreet, and Katie Shepherd.

Guest: Katherine Halloran, Committee Staff Administrator, Capital Projects and Bond Oversight Committee.

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

Approval of Minutes

A motion to approve the minutes of the August 15, 2017 meeting was made by Senator Westerfield, seconded by Representative Elliott, and approved by voice vote.

Information Item

Mr. Landrum updated the members on the Beaver Dam Service Area project. A 20-year contract to renovate and operate the service area was recently awarded to Martin and Bayley, Inc. The service area, located on the Wendell H. Ford Western Kentucky Parkway, is scheduled to open January 26, 2018. The contract included two 5-year renewal options for a total up to 30 years. Rent to the commonwealth will be paid quarterly with payments determined as a percentage of gross receipts.

Staff Report on Kentucky's Bonded Indebtedness

An in-depth analysis of the historic, current, and projected debt position of the commonwealth was included in members' binders. The report also addressed factors that influence the cost of issuing debt. Katherine Halloran, Committee Staff Administrator, Capital Projects and Bond Oversight Committee, prepared the report on behalf of the board, and was available to respond to questions.

2018-2024 Statewide Capital Improvements Plan

Senator Humphries said the one item of business was approval of the *2018-2024 Statewide Capital Improvements Plan*. The capital plan consisted in part of three sets of state-funded project recommendations in the categories of construction to protect investment in plant, information technology, and new construction. These projects were selected individually by members and submitted to the board's staff in late August. The capital plan also included three updated policy recommendations used in previous plans. There were no new recommendations from members this year.

The policy recommendations include: 1) funding the Budget Reserve Trust Fund at a level based on available revenues. In the past, the board has recommended five percent of General Fund revenues be allocated to the Budget Reserve Trust Fund. However, considering the General Fund budget reduction order issued by the Governor in July, and given that previous fund balances have historically been below five percent, it is highly unlikely five percent will be achieved; 2) support for the Council on Postsecondary Education's (CPE) revised approach to funding postsecondary capital needs. In its upcoming budget request, CPE will request state funds for an asset preservation pool and an information technology and equipment pool only. In the past, CPE has requested state funds for new construction, but due to the deteriorating conditions of the postsecondary facilities, as well as other factors, CPE will focus on preserving existing facilities; and 3) urging the General Assembly to allocate adequate funding for state agency maintenance pools in the next executive budget.

Mr. Landrum stated that in his position as Secretary of the Finance and Administration Cabinet, he oversees expenditures from the Budget Reserve Trust Fund. He said the balance in the fund has an impact on how the state is viewed with regard to its bonding and credit rating, and more should be done to protect these funds.

In response to a question from Ms. Shepherd, Senator Humphries explained that the policy recommendations to be included in the capital plan are considered potential recommendations until the board approves them. Once the potential recommendations are formally approved by members, they become policy recommendations.

There was a motion made by Representative Johnson, seconded by Senator Westerfield, and adopted by roll call vote to approve the draft *2018-2024 Statewide Capital Improvements Plan*, including the policy recommendations and the state-funded project recommendations. The motion also included the authorization for staff to make the necessary editing changes in finalizing the plan for publication.

Adjournment

There being no further business, the meeting was adjourned at 10:25 AM.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

November 1, 2017

Call to Order and Roll Call

The 9th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, November 1, 2017, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Aleta Botts, Executive Director, Kentucky Center for Agriculture and Rural Development (KCARD); B. Mark Evers, M.D., Director, University of Kentucky Markey Cancer Center (MCC); and Jason Chesney, M.D., Ph.D., Director, University of Louisville James Graham Brown Cancer Center (JGBCC).

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

The October 4, 2017, minutes were approved by unanimous voice vote.

Governor's Office of Agricultural Policy Report

Warren Beeler discussed his schedule for the months of October through December.

In response to Senator Hornback, Mr. Beeler stated Breathitt Lab has increased its fees twice in the last couple of years.

Bill McCloskey described the Agricultural Development Board's projects for October under the program. Mr. McCloskey highlighted programs including the County Agricultural Investment Program (CAIP), Next Generation Beginning Farmer, Shared-use Equipment, and Youth Agriculture Incentives Program.

Requested program amendments discussed included:

Rockcastle County Conversation District, additional $13,879 for CAIP. The board recommended approval, which would bring the program total to $281, 677.

Johnson County Agricultural Advancement Council, Inc., additional $3,700 for CAIP. The board recommended approval, which would bring the program total to $51,950.

Oldham County Farm Bureau, additional $4,450 for CAIP. The board recommended approval, which would bring the program total to $29,099.

Trimble County Cattleman's Association, Inc., additional $16,900 for CAIP. The board recommended approval, which would bring the program total to $139,540.

Washington County Cattlemen Association, Inc., additional $40,000 for CAIP. The board recommended approval, which would bring the program total to $142,000.

Garrard County Farm Bureau, Inc., additional $42,944 for CAIP. The board recommended approval, which would bring the program total to $242,944.

Morgan County Fiscal Court, additional $19,011 for CAIP. The board recommended approval, which would bring the program total to $220,093.

Mercer County Conservation District, additional $22,423 for CAIP. The board recommended approval, which would bring the program total to $157,423.

Allen County Conservation District, additional $14,987 for CAIP. The board recommended approval, which would bring the program total to $203,206.

Grant County Cattlemens Association, Inc., additional $20,000 for CAIP. The board recommended approval, which would bring the program total to $148,000.

Menifee County Beef Producers, Inc., additional $9,292 for CAIP. The board recommended approval, which would bring the program total to $72,892.

Meade County Cattleman Association Corporation, additional $2,650 for CAIP. The board recommended approval, which would bring the program total to $48,290.

Projects discussed included:

Midway Christian Church (Disciples of Christ), Inc., approved for $1,100 in Woodford

County funds for purchasing a commercial refrigerator for its certified kitchen.

Madison County Fiscal Court, approved for $4,620 in Madison County funds to upgrade its dead animal removal truck.

Kentucky State University, approved for $495,000 in state funds for calendar year 2018 for personnel, demonstration projects, and mini-grants to underserved small and limited-resource farmers.

Kentucky Center for Agricultural and Rural Development, Inc., approved for $700,000 in state funds over two years as a grant to deliver technical assistance and provide educational opportunities to agricultural and rural businesses.

In response to Senator Parrett, Aleta Botts stated the increased fees related to the Kentucky Center for Agriculture Rural Development project will not come out of the $4 million federal reward.

University of Kentucky Markey Cancer Center

Dr. B. Mark Evers said that lung cancer accounts for 35 percent of total cancer deaths in Kentucky compared to 28 percent in the United States from 2007 to 2011. In Kentucky, more than 28 percent of adults smoke and nearly 8,000 adults die from tobacco related illnesses annually. Health care costs caused by tobacco use are $1.92 billion annually and productivity losses caused by smoking are $2.3 billion annually.

The return on investment for the Kentucky Lung Cancer Research Program (KLCRP), as a result of funding from the Tobacco Settlement is $11.34 per dollar invested. The total economic impact is $707.4 million. The program has created 5,426 jobs and generated $24 million in state and local tax revenue.

The mission of MCC is to reduce cancer mortality through a comprehensive program of research, treatment, education, and community engagement with a particular focus on the underserved population of Appalachian Kentucky.

The program utilizes funding to develop clinical trials and research that assists in leveraging larger funding from the National Institutes of Health (NIH). The Markey Cancer Center received a National Cancer Institute (NCI) designation in July 2013, which increased funding by 36 percent.

The Markey Cancer Center has expanded its network throughout the state with affiliate and research sites. There are currently 20 affiliate sites with seven in the recruitment process and six research sites with three in the recruitment process.

In December 2017, MCC will open a new inpatient floor with 93 outpatient beds, including 32 in the bone marrow transplant unit. The large rooms will be able to accommodate families as well as provide patient comfort.

In November 2017, the Early Phase Clinical Trials Center will open and will be directed by Jill Kolesar, Pharm. D. It is a standalone clinic with expertise in early drug development and delivery and will offer early phase treatments.

The Molecular Tumor Board (MTB) was launched in October 2016. The board is now statewide and utilizes teleconferencing. The MTB analyzes the molecular characteristics of cancers on a case by case basis and provides individualized recommendations for treatment. The Center for Cancer and Metabolism, UK Center for Appalachian Research in Environmental Sciences, and the Lung Cancer Education Awareness Detection Survivorship Collaborative (LEADS) are new areas that are utilizing funds.

Through the NCI designation, MCC is able to supplement their grants to develop tobacco cessation treatment capacity and infrastructure for cancer patients. Markey CARES (Cancer-specific, Assessment, Referral, Engagement, and Support) Tobacco Program was created to examine tobacco cessation after cancer diagnosis.

Research shows highly effective efforts to improve the health of Kentuckians. Thirty-four percent of the population is currently covered by state-wide smoke-free acts. Kentucky has the highest percentage of adult cigarette use and the 12th lowest excise tax in the country.

University of Louisville James Graham Brown Cancer Center

Dr. Jason Chesney stated Kentucky has the highest rate of cancer related deaths in the country, and approximately 3,500 Kentuckians will succumb to lung cancer this year.

The funds from the Tobacco Settlement are crucial to starting clinical trials for patients that have a terminal illness. The expenditures of the Tobacco Settlement funds include those for administrative costs, NCI designation, clinical trials, early detection, fellows, and competitive research grants.

The focus of JGBCC is clinical trials to activate the immune system against cancer. The center consists of 26 staff members, three clinical investigators, and 59 translational scientists. There are currently 130-140 open trials. Approximately 700-750 cancer patients are now enrolled, and there are 250-300 accruals per year.

Most people have already had cancer at some point in their lives. White blood cells exist to fight viruses and cancer. Eventually, with time and mutations, the cancer cells find ways to evade the immune system. Within the last decade discoveries showed that immune cells have brakes that turn them on. The concept is to block the brakes from allowing the cancer to grow.

The James Graham Brown Cancer Center had successful clinical trials for melanoma patients. The patients had a 5 percent chance of survival, and most of them are alive today. The combination of drugs given to the patients was approved by the Food and Drug Administration in 2015. The success of the drug combination depends on how many mutations the cancer typically produces, and Melanoma has the most mutations. Lung cancer has the second most mutations. James Graham Brown Cancer Center is utilizing the same combination of drugs for lung cancer.

The next meeting of the Tobacco Agreement Oversight Committee is scheduled for December 6, 2017. Documents distributed during the meeting are available in the LRC Library.

There being no further business, the meeting was adjourned.

2018 Prefiled Bills

BR1 - Representative Jerry Miller (8/16/2017)

AN ACT relating to the overtaking of bicycles on a roadway.
Amend KRS 189.300 to provide that the operator of any vehicle moving upon a highway is to keep to the right unless signage or markings indicate otherwise; amend KRS 189.340 to require vehicles overtaking bicycles to pass at a distance of at least three feet; provide that if there not a minimum distance of three feet available, the passing vehicle is to use reasonable caution; specify when a motor vehicle may pass a bicycle to the left of the center of a roadway.
(Prefiled by the sponsor(s).)

BR2 - Representative Diane St. Onge (6/5/2017)

AN ACT relating to public safety.
Amend KRS 446.010 to define "unmanned aircraft system"; create a new section of KRS Chapter 500 to prescribe permitted and prohibited uses of drones; provide exceptions; prohibit use of evidence obtained by a drone in violation of stated prohibitions; authorize that section to be cited as the "Citizens' Freedom from Unwarranted Surveillance Act"; create a new section of KRS Chapter 501 to clarify criminal liability for offenses committed using a drone; create a new section of KRS Chapter 525 to create the offense of obstructing an emergency responder.
(Prefiled by the sponsor(s).)

BR14 - Representative Tom Burch (6/22/2017)

AN ACT relating to the reporting of child abuse, neglect, or dependency.
Amend KRS 620.030 to establish that if a person knows or has reasonable cause to believe that a child is dependent, neglected, or abused, causes an oral or written report of the dependency, neglect, or abuse to be made, is employed by a local law enforcement agency, the Department of Kentucky State Police, the cabinet or its designated representative, the Commonwealth's attorney, or a county attorney, then that person shall make the oral or written report to his or her employer and to one of the other entities authorized to receive the report.
(Prefiled by the sponsor(s).)

BR15 - Representative Jim Wayne, Representative Tom Burch, Representative Jeffery Donohue, Representative Joni Jenkins, Representative Mary Lou Marzian, Representative Reginald Meeks, Representative Attica Scott (7/13/2017)

AN ACT relating to taxation.
Amend KRS 140.130 to decouple from changes to the federal estate tax since 2003; amend KRS 141.010 to provide for a reduction and phase-out of the pension exclusion, disallow the domestic production activities deduction, establish a cap for itemized deductions, and define "taxpayer"; amend KRS 141.020 to provide for changes to income tax rates; amend KRS 141.066 to make a technical correction; amend KRS 141.0205 to recognize and order changes in income tax credits; amend KRS 141.0401 to lower the exclusion threshold; amend KRS 141.120 to change apportionment methods to use a "throwback" rule and market-based sourcing for receipts; amend KRS 141.200 to require "combined" reporting for corporations; amend KRS 134.810, 136.310, 136.530, 141.040, 141.121, 141.206, and 141.420 to conform; amend KRS 141.205 to recognize "tax haven" foreign countries and tax all income apportioned or allocated to those countries; amend KRS 141.383, 148.544, and 148.546 to make the film industry tax credit nonrefundable and nontransferable; create a new section of KRS 6.905 to 6.935 to require review and sunset of all economic development tax credits; amend KRS 131.190 to allow LRC employees to review selected tax documents; amend KRS 138.270 to reduce motor fuels dealer compensation to one percent; amend KRS 132.020 to make the real property tax rate 12.2 cents per $100, remove the rate adjustment provision, and remove the recall provisions; amend KRS 132.260 to clarify requirements for reporting of rental space for mobile or manufactured homes, private aircraft, and certain boats or vessels; amend KRS 132.730, 132.751, 132.810, and 132.815 to clarify property tax treatment of manufactured homes; amend KRS 140.300 to clarify the treatment of agricultural valuation on inherited property; amend KRS 279.200, 279.530, 279.220, and 139.530 to repeal rural electric and telephone co-op taxes; amend KRS 132.097 and 132.099 to amend the exemption for personal property shipped out of state; amend KRS 139.105, 139.200, 139.220, 139.270, 139.340 and 139.740 to impose sales tax on selected services; create a new section of KRS Chapter 141 to provide for a refundable Kentucky earned income tax credit; amend KRS 243.0305 and 243.990 to recognize changes in the distilled spirits case tax; amend KRS 138.130, 138.140, and 138.143 to change the tax on cigarette rolling papers, to raise the tobacco taxes, to impose a floor stock tax, and to tax e-cigarettes; amend KRS 65.125, 65.674, 67.862, 67.938, 67A.843, 68.245, 68.248, 82.095, 97.590, 132.0225, 132.023, 132.024, 132.027, 132.029, 157.440, 160.470, 160.473, 67C.147, 78.530, 342.340, and 134.810 to remove provisions that allow for recall of certain tax rates and make conforming and technical changes; create a new section of KRS Chapter 141 to provide for a refundable noise mitigation credit; repeal KRS 132.017, 132.018, 132.025, 132.720, 143A.035, and 243.710, relating to recall petitions and to various tax rates; provide that estate tax provisions apply for deaths occurring on or after August 1, 2018, sales tax provisions are effective for periods beginning on or after October 1, 2018, motor fuels compensation provisions are effective August 1, 2018, and property tax provisions are for assessments on and after January 1, 2019.
(Prefiled by the sponsor(s).)

BR18 - Senator Morgan McGarvey (10/18/2017)

AN ACT relating to telecommunications.
Amend KRS 278.5461 to include a definition of "personally identifiable information"; amend KRS 278.5462 to provide that no telecommunications or Internet service provider shall collect personally identifiable information from a customer as a result of the customer's use of the telecommunications or Internet services without the customer's express written approval.
(Prefiled by the sponsor(s).)

BR25 - Representative Jeffery Donohue (8/14/2017)

AN ACT relating to death in the line of duty benefits and declaring an emergency.
Amend KRS 16.601 and 61.621 to increase minimum death benefits payable to the

surviving spouse of a member of the state-administered retirement systems from 25% to 50% of the deceased member's final rate of pay if the member died as a result of an act occurring in the line of duty; amend KRS 61.542 to provide that the surviving spouse shall supersede all previously designated beneficiaries in the case of line-of-duty death benefits payable from the systems administered by the Kentucky Retirement Systems unless the member files a valid beneficiary designation form after marriage to his or her spouse; provide that eligible surviving spouses of members who died in the line of duty prior to the effective date of the Act shall receive the increased line of duty death benefits; provide that a surviving spouse of a hazardous duty member who died as a result of an act occurring in the line of duty on or after January 1, 2017, who was ineligible for the minimum monthly death benefits because he or she was not named beneficiary shall be eligible for the benefits provided by this Act; EMERGENCY.

(Prefiled by the sponsor(s).)

BR28 - Representative Jason Nemes (9/20/2017)

AN ACT proposing to amend Sections 117, 118, 119, and 122 of the Constitution of Kentucky relating to the election of appellate judges.
Propose to amend Sections 117, 118, 119, and 122 of the Constitution of Kentucky to fill terms of justices of the Supreme Court and judges of the Court of Appeals by appointment by the Governor from a list of three nominees provided by the judicial nominating commission; provide for appointed justices and judges who seek additional terms to stand for elections in their districts; limit individuals to two full terms of office; schedule transitional provisions; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)

BR37 - Representative Scott Wells (8/25/2017)

AN ACT relating to area development districts and declaring an emergency.
Amend KRS 147A.117 to require that the Auditor of Public Accounts' bill shall not exceed a quote given to an area development district by a certified public accountant for the same audit; EMERGENCY; EFFECTIVE July 1, 2018.

(Prefiled by the sponsor(s).)

BR38 - Senator John Schickel (5/15/2017)

AN ACT relating to Kentucky school bus drivers.
Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."

(Prefiled by the sponsor(s).)

BR39 - Representative Sal Santoro (5/16/2017)

AN ACT relating to Kentucky school bus drivers.
Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."

(Prefiled by the sponsor(s).)

BR40 - Representative Kenny Imes (6/27/2017)

AN ACT proposing to amend Section 29 of the Constitution of Kentucky relating to administrative regulations.
Propose to amend Section 29 of the Constitution of Kentucky to permit the General Assembly or an agency or committee it creates to review, approve, or disapprove any administrative regulation of the executive branch during or between regular sessions of the General Assembly; submit to the voters for approval or disapproval; supply ballot language.

(Prefiled by the sponsor(s).)

BR41 - Representative Kenny Imes (6/6/2017)

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.
Propose to amend Section 95 of the Constitution of Kentucky to hold the election of the Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, and Commissioner of Agriculture, Labor and Statistics in even-numbered years, every four years, beginning in 2024; provide transitional calendar; submit to the voters for ratification or rejection; provide ballot language.

(Prefiled by the sponsor(s).)

BR54 - Representative Jeffery Donohue (6/8/2017)

AN ACT relating to railroads.
Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.

(Prefiled by the sponsor(s).)

BR57 - Representative Sal Santoro (9/22/2017)

AN ACT relating to electric and hybrid vehicle fees and making an appropriation therefor.
Create a new section of KRS Chapter 186 to establish a base fee for hybrid vehicles, hybrid electric plug-in vehicles, and non-hybrid electric vehicles; require the fee to be adjusted with any increase or decrease in the gasoline tax established in KRS 138.228; require collection of the fee at the time of motor vehicle registration; require that all fees collected under this section be transferred to the road fund; amend KRS 186.010 to define the terms "hybrid vehicle," "hybrid electric plug-in vehicle," and "non-hybrid electric vehicle"; amend KRS 186.050 to reference the fees collected under this Act; amend KRS 138.220 to provide notification to county clerks of the fees provided in this Act; make technical correction; EFFECTIVE January 1, 2019.

(Prefiled by the sponsor(s).)

BR64 - Senator Johnny Ray Turner (6/1/2017)

AN ACT relating to vacating convictions for reckless homicide.
Amend KRS 431.073 to allow convictions for reckless homicide to be vacated and expunged if the offender has first been granted a partial pardon by the Governor.

(Prefiled by the sponsor(s).)

BR67 - Representative Jason Nemes (9/20/2017)

AN ACT relating to appellate judges.
Amend KRS 118A.110 to define "retention election" for appellate judges; create a new section of KRS Chapter 118A to create an election process for retaining appointed appellate judges, following the ratification of a constitutional amendment to provide for appointments of appellate judges; amend KRS 118A.020, 118A.030, 118A.060, 118A.100, and 118A.140 to conform; repeal, reenact, and amend KRS 21A.020 to set staggered terms for appellate judges; EFFECTIVE contingently on January 1, 2020.

(Prefiled by the sponsor(s).)

BR81 - Representative Brandon Reed (9/28/2017)

Urge the United States Fish and Wildlife Service to issue more migratory bird depredation permits and subpermits to allow Kentucky farmers to legally take black vultures that are depredating their livestock.
(Prefiled by the sponsor(s).)

BR91 - Representative Regina Huff (7/25/2017)

AN ACT relating to suicide prevention training.
Amend KRS 156.095 to require two hours of in-person suicide prevention professional development training every other school year for middle and high school principals, guidance counselors, and teachers; require a newly hired staff member to receive a packet of information on suicide prevention when the person is hired in a year training is not provided; amend KRS 158.070 to delete requirement for two hours of self-study review for suicide prevention training.
(Prefiled by the sponsor(s).)

BR97 - Representative George Brown Jr, Representative Attica Scott (7/12/2017)

AN ACT relating to criminal histories of job applicants.
Create a new section of KRS Chapter 344 to prohibit employers from considering or requiring disclosure of prior criminal history as part of the initial job application; title the Act "Ban the Box - The Criminal Record Employment Discrimination Act."
(Prefiled by the sponsor(s).)

BR102 - Representative Suzanne Miles, Representative Jason Nemes (6/29/2017)

AN ACT relating to the natural resources severance and processing tax.
Amend KRS 143A.010 to amend the definition of "processing" to include the act of loading or unloading limestone that has not otherwise been severed or treated in the Commonwealth; amend KRS 143A.035 to allow a credit for substantially identical severance or processing taxes paid to another state or political subdivision thereof; provide that no taxpayer may claim a total amount of credit that exceeds his or her tax liability; allow the Department of Revenue to report tax credit information to the Legislative Research Commission; amend other sections to conform; EFFECTIVE August 1, 2018.
(Prefiled by the sponsor(s).)

BR105 - Senator Danny Carroll (10/12/2017)

AN ACT relating to sex offenses.
Amend KRS 510.050, 510.060, 510.080, 510.090, 510.110, and 510.120 to increase penalties for sex crimes against a victim who is a person with an intellectual disability.
(Prefiled by the sponsor(s).)

BR113 - Senator Brandon Smith (9/8/2017)

AN ACT relating to sign language interpretation in the House and Senate chambers.
Amend KRS 7.100 to require the Legislative Research Commission to provide sign language interpretation in each chamber of the General Assembly whenever the General Assembly is in session.
(Prefiled by the sponsor(s).)

BR114 - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette (6/30/2017)

AN ACT relating to the Public Service Commission.
Create a new section of KRS Chapter 278 to require the Public Service Commission to reconsider previously issued orders that involve multistate transactions if the orders involve a multistate transaction that requires approval from another state public utility commission and the out-of-state public utility commission fails to approve the transaction or utility plan; require the Public Service Commission to review its previous order and determine whether the order is still in the public interest of Kentucky ratepayers; provide that the provisions of this Act shall apply retroactively to all Public Service Commission orders issued on or after July 1, 2013.
(Prefiled by the sponsor(s).)

BR115 - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette (6/30/2017)

Direct the Public Service Commission to reexamine the electric rates charged to certain ratepayers to determine if they remain fair, just, and reasonable.
(Prefiled by the sponsor(s).)

BR131 - Senator Alice Kerr (10/17/2017)

AN ACT relating to the safe disposal of controlled substances.
Amend KRS 218A.170 to require a practitioner or a pharmacist to sell or distribute a nontoxic composition, which permanently captures the controlled substance, for the sequestration or deactivation and disposal of unused, unwanted, or expired controlled substances anytime a controlled substance is sold or distributed.
(Prefiled by the sponsor(s).)

BR143 - Representative Dan Johnson (10/5/2017)

AN ACT relating to unborn children and declaring an emergency.
Amend KRS 507A.010 to redefine "abortion," "unborn child" and define "fertilization"; amend the definition of unborn child; require prosecution for the death of an unborn child without limitation and not withstanding any other state law regardless of the identity of the actor; create a new section of KRS Chapter 15 to require the Attorney General and Commonwealth's attorneys to monitor and enforce KRS Chapter 507A; amend KRS 211.027, 311.720, 311.727, and 311.760 to conform; repeal KRS 311.710 and 507A.060; permit the Act to be cited as the Abolition of Abortion in Kentucky Act; EMERGENCY.
(Prefiled by the sponsor(s).)

BR149 - Representative Dennis Keene (9/18/2017)

AN ACT relating to the expansion of gaming and making an appropriation therefor.
Create a noncodified section to state the findings of the General Assembly; amend KRS 154A.010 to define, "authorizing location," "casino," "county," "county legislative body," "department," "full casino gaming," "gaming licensee," "gross gaming revenue," "handle," "licensee," "limited casino gaming," and "principal"; amend KRS 154A.030 to expand the Lottery Corporation board membership and duties; amend KRS 154A.040 to include casino licensees; amend 154A.063 to remove prohibition against casino gaming; create new sections of KRS Chapter 154A to require a local option election in any precinct wanting to host a casino; describe the duties of the county clerk and sheriff in a casino gaming local option election; state requirements for local option elections held on a day other than a regular election day; require the corporation to advertise an invitation to bid for casinos; require the corporation to evaluate all proposals for full casinos; establish initial licensing fees

for full casinos at $50 million with an initial licensing period of 10 years and annual renewal thereafter at $6 million per year; permit limited casino gaming at horse racing tracks licensed under KRS Chapter 230; establish requirements for limited casinos; establish requirements for any track holding a limited casino license; establish requirements for principals of any corporation granted a casino license; create license application requirements for casino, manufacturer, or supplier's licenses; prohibit anyone not licensed from selling, leasing, or otherwise furnishing gaming supplies; prohibit anyone under the age of 21 from participating in casino gaming; require the Lottery Corporation to determine occupations related to casino gaming that require licensure and establish criteria for occupational licensing; permit the corporation to initiate disciplinary action against applicants and license holders; establish an appeal process; establish a gaming tax of 31% and limit that money to the benefit of the state retirement systems for the first 10 years; establish an admission tax of $3 per person per day; establish the casino gaming revenue distribution trust fund; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. sec. 1172, 1173 and 1174 for devices authorized by this Act; require the corporation to promulgate administrative regulations to define and limit games and devices permitted for gaming in casinos; provide guidelines for exclusion or ejection of certain persons; define "cheat" and provide penalties for those who cheat at casino games; amend KRS 243.500 to exempt limited or full casino gaming; amend KRS 525.090 to exempt persons engaged in casino gaming; amend KRS 528.010 to exempt gambling activity and devices licensed under KRS Chapter 154A; amend KRS 528.020 to conform; amend KRS 528.070 to exempt activity licensed under KRS Chapter 154A; amend KRS 528.080 to exempt those with the appropriate license required under KRS Chapter 154A; amend KRS 528.100 to exempt limited or full casino gaming licensed under KRS Chapter 154A; EFFECTIVE DATE DELAYED.

(Prefiled by the sponsor(s).)

BR155 - Senator Julian Carroll (9/20/2017)

AN ACT relating to sports wagering and making an appropriation therefor.
Create a new section of KRS Chapter 230 to require the Kentucky Horse Racing Commission to institute a sports wagering system; amend KRS 230.210 to define "exempt sports contest," "sports wagering," and "sports wagering facility"; amend KRS 230.215 to declare it the policy of the Commonwealth to encourage the conduct of wagering on sporting events, when allowed by federal law, and to vest forceful control over sports wagering in the racing commission; include consideration of members of professional and collegiate sports organizations in the Governor's appointments to the commission; amend KRS 230.240 to allow the director of the racing commission to take personnel action relating to sports wagering; amend KRS 230.260 to include promotion of fair sports wagering among the purposes of the racing commission; create a new section of KRS Chapter 230 to establish licensing requirements and establish a licensing fee of $250,000; create a new section of KRS Chapter 230 to require the racing commission to promulgate administrative regulations prescribing the manner in which sports wagering shall be conducted; provide minimum criteria; prohibit participants from wagering on a sporting event; create a new section of KRS Chapter 230 to establish a 20 percent tax on the total amount wagered at sports wagering facilities; create a new section of KRS Chapter 230 to establish the sports wagering distribution trust fund and appropriate moneys from that fund; amend KRS 230.320 to include sports wagering among the activities that are regulated by the racing commission; amend KRS 230.360 to include sports wagering among the activities that are not subject to local control; amend KRS 230.990 to establish penalties for tampering with the outcome of a sporting event and participant wagering on a sporting event; EFFECTIVE UPON CONTINGENCY: Act takes effect only if the federal Professional and Amateur Sports Protection Act is repealed by Congress or is rendered void by the United States Suprem Court.

(Prefiled by the sponsor(s).)

BR163 - Senator Julian Carroll (10/18/2017)

AN ACT relating to cannabidiol use.
Create a new section of KRS Chapter 218A to permit a physician to recommend the use of cannabidiol or cannabidiol products; set criteria for recommendations; prohibit the Board of Medical Licensure from prohibiting recommendations; amend KRS 218A.010 to add recommendation to the definition of marijuana.

(Prefiled by the sponsor(s).)

BR164 - Senator Morgan McGarvey (10/19/2017)

AN ACT relating to animal safety.
Amend KRS 411.245 to establish immunity from civil liability for damage to a vehicle if a person enters the vehicle for the purpose of removing a domestic animal.

(Prefiled by the sponsor(s).)

BR165 - Representative Jim Wayne (8/8/2017)

AN ACT relating to firearms.
Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.

(Prefiled by the sponsor(s).)

BR170 - Representative Attica Scott, Representative George Brown Jr, Representative Kelly Flood (8/31/2017)

AN ACT relating to student criminal history background checks.
Create a new section of KRS Chapter 164 to prohibit public postsecondary institutions from inquiring about a prospective student's criminal history prior to admission, except for certain types of offenses; allow an institution to inquire about a student's criminal history after admission, for the purposes of providing support services and informing decisions regarding a student's participation in campus activities, organizations, and residency; allow an institution to inquire about a student's criminal history prior to admission into a professional degree program, but prohibit denial of admission based solely on criminal history; require institutions to provide counseling regarding occupational licensing requirements to a professional degree student who has a criminal history.

(Prefiled by the sponsor(s).)

BR172 - Representative C. Wesley Morgan (8/22/2017)

AN ACT relating to carrying concealed weapons.
Create a new section of Chapter 237 to allow concealed deadly weapons to be carried without a license in same locations as concealed carry license holders may carry them; amend KRS 237.115 and 527.020 to conform.

(Prefiled by the sponsor(s).)

BR173 - Representative C. Wesley Morgan (8/18/2017)

AN ACT relating to public assistance.
Amend KRS 205.200 to create a substance abuse screening program for adult recipients

of public assistance, food stamps, and state medical assistance.

(Prefiled by the sponsor(s).)

BR174 - Representative C. Wesley Morgan (10/25/2017)

AN ACT relating to historical preservation.
Create new sections of KRS Chapter 11 to establish the Kentucky Memorial Preservation Act of 2018; define terms; create standards for preservation; prohibit any person from preventing maintenance of memorials under the jurisdiction of a governmental entity; establish the Committee on Kentucky Monument Protection and provide the structure, process, and membership of the committee; establish the duties of the committee; establish a petition process for a waiver if an entity wants to remove, alter, rename, relocate, or disturb certain significant properties; create certain exemptions; authorize the Attorney General to determine whether an entity responsible for the architecturally significant building, memorial building, memorial school, memorial street, or monument has complied with the provisions of this Act; require the Division of Historic Properties to promulgate administrative regulations under KRS Chapter 13A for the implementation of this Act; amend KRS 11.026 to conform.

(Prefiled by the sponsor(s).)

BR175 - Representative C. Wesley Morgan
Oct 09-WITHDRAWN

BR182 - Representative Rick Nelson (8/17/2017)

AN ACT relating to electric utility billing.
Create a new section of KRS Chapter 278 to place a cap on the amount that an electric utility can bill for a basic service charge.

(Prefiled by the sponsor(s).)

BR187 - Senator Dorsey Ridley (9/27/2017)

AN ACT relating to notification of the expiration date of an instruction permit, operator's license, or personal identification card.
Create a new section of KRS 186.400 to186.640 to require the Transportation Cabinet to notify holders of operator's licenses, instruction permits, and personal ID cards of the impending expiration of these documents 45 days prior to their expiration; allow notice by electronic or postal mail; allow license, permit, and ID card holders to provide electronic mail addresses for notification or opt out of notification; clarify that nonreceipt of a notice shall not constitute a defense to any offense regarding an expired permit or license.

(Prefiled by the sponsor(s).)

BR192 - Representative Jason Nemes (10/13/2017)

AN ACT relating to personal jurisdiction.
Amend KRS 454.210 to expand personal jurisdiction of courts over nonresidents.

(Prefiled by the sponsor(s).)

BR193 - Representative Jason Nemes (10/20/2017)

AN ACT relating to occupational licensing regulations.
Create new sections of KRS Chapter 12 to define terms; set forth requirements for all occupational licensing regulations established by an agency on or after November 15, 2018; require each agency to conduct a comprehensive review of all occupational licensing regulations under its jurisdiction every five years and to prepare and submit a report of its review to the Legislative Research Commission; establish a process to petition an agency to repeal or modify an occupational licensing regulation; allow a petitioner to appeal an agency's actions or inaction to Circuit Court.

(Prefiled by the sponsor(s).)

BR195 - Representative Regina Huff (9/15/2017)

AN ACT relating to a day of prayer for students.
Create a new section of KRS Chapter 2 designating the last Wednesday in September of each year as A Day of Prayer for Kentucky's Students.

(Prefiled by the sponsor(s).)

BR197 - Representative Dennis Keene, Representative Rick Rand (9/18/2017)

AN ACT proposing an amendment to Section 226 of the Constitution of Kentucky relating to casino gaming.
Propose to amend Section 226 of the Constitution of Kentucky to authorize the General Assembly to define and permit casino gaming; prior to July 1, 2029, require that proceeds be used to pay for oversight of casino gaming, and mandate that 100 percent of proceeds in excess of oversight costs go to retirement systems; after July 1, 2029, allow the General Assembly to allocate proceeds.

(Prefiled by the sponsor(s).)

BR199 - Representative Kenny Imes (9/18/2017)

Urge the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset provision.

(Prefiled by the sponsor(s).)

BR204 - Senator Richard Girdler, Senator Stephen Meredith (9/28/2017)

AN ACT relating to retirement benefit participation for members of the General Assembly.
Create a new section of KRS 6.145 to 6.237 to allow an individual who becomes a member of the General Assembly on or after the effective date of the Act to make a one-time irrevocable election to not participate in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for his or her service to the General Assembly; allow an individual who has not yet met the requirements for vesting to make a one-time irrevocable election within 60 days of the effective date of this Act to discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for his or her service to the General Assembly and receive a refund of his or her accumulated account balance; provide that the election to not participate or discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System shall apply to all future service of the General Assembly; amend KRS 6.505, 61.510, 61.525, 61.535, and 61.625 to conform.

(Prefiled by the sponsor(s).)

BR213 - Senator Richard Girdler, Senator Stephen Meredith (9/28/2017)

AN ACT relating to retirement benefits for legislators.
Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2018; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2018; provide that current and future legislators may only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2018.

(Prefiled by the sponsor(s).)

BR214 - Senator Johnny Ray Turner (11/13/2017)

Direct the Transportation Cabinet to designate a Floyd County bridge in honor of Julius Mullins.
(Prefiled by the sponsor(s).)

BR216 - Senator Max Wise (9/25/2017)

AN ACT relating to pharmacy benefits in the Medicaid program.
Create a new section of KRS Chapter 205 to require the Department for Medicaid Services to directly administer all outpatient pharmacy benefits; prohibit renewal or negotiation of new contracts to provide Medicaid managed care that allow administration of outpatient benefits by any entity but the Department for Medicaid Services; reduce costs of future Medicaid managed care contracts by costs of all outpatient pharmacy benefits as they existed on January 1, 2017; allow the department to utilize managed care principles and techniques to assist with member medication adherence and cost control; require the department to establish a reasonable dispensing fee pursuant to Centers for Medicare and Medicaid Services guidelines; EFFECTIVE January 1, 2019.
(Prefiled by the sponsor(s).)

BR228 - Representative Joseph Fischer, Representative Bart Rowland (9/26/2017)

AN ACT relating to credit freezes and declaring an emergency.
Amend KRS 367.365 to allow for security freezes to be requested by methods established by the consumer reporting agency; allow consumers to request a replacement personal identification number or password in the same manner as the original security freeze request; remove the expiration of a credit freeze after seven years; include gender-neutral language; EMERGENCY.
(Prefiled by the sponsor(s).)

BR230 - Representative Jason Nemes, Representative C. Wesley Morgan (10/20/2017)

AN ACT relating to retirement benefits for legislators.
Create new sections of KRS 6.500 to 6.577 to permit a member or retiree of the Legislators' Retirement Plan to opt out of the traditional defined benefit plan and elect to participate in the Kentucky Employees Retirement System's hybrid cash balance plan for nonhazardous employees under KRS 61.597; specify that, on the member's effective election date, the value of the active member's accumulated account balance or a lump-sum payment of the actuarial value of the retiree's benefits be deposited into the member's hybrid cash balance account and be considered part of the member's accumulated account balance in the Kentucky Employees Retirement System; specify that on an active member's effective election date, an employer pay credit shall be applied to the member's accumulated account balance for each contributing month prior to the effective election date; require the Judicial Form Retirement System and the Kentucky Retirement Systems to provide the electing member with information detailing the consequences of the member's or retiree's election; specify that a member or retiree is not eligible to make an election until a private letter ruling by the IRS is received; make the benefit election under this section irrevocable; amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2018, and transfer all legislative members' in the hybrid cash balance plan to the hybrid cash balance plan in the Kentucky Employees Retirement System; make conforming amendments to KRS 21.374, 21.402, and 61.597; amend KRS 141.010 and 141.020 to provide that, effective for taxable years on or after January 1, 2019, members and retirees of the Legislators' Retirement Plan who do not opt out of the traditional defined benefit plan and elect to participate in the Kentucky Employees Retirement System's hybrid cash balance plan have any retirement distributions exceeding \$80,000 taxed at a rate of 75%.
(Prefiled by the sponsor(s).)

BR234 - Representative Robby Mills (9/28/2017)

AN ACT relating to estheticians.
Amend KRS 317B.025 to reduce from 1,000 to 700 the hours of instruction required for licensure as an esthetician; permit the instruction to be held in a school in another state if the school is licensed or approved by that state.
(Prefiled by the sponsor(s).)

BR235 - Representative Robby Mills (9/28/2017)

AN ACT relating to retirement benefit participation for members of the General Assembly and declaring an emergency.
Create a new section of KRS 6.145 to 6.237 to allow individuals who become members of the General Assembly on or after April 1, 2018, to make a one-time irrevocable election to not participate in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for their service to the General Assembly; allow members of the General Assembly who began contributing to the Legislators' Retirement Plan or the Kentucky Employees Retirement System on or after December 31, 2014, but prior to April 1, 2018, to make a one-time irrevocable election by December 31, 2018, to discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for their service to the General Assembly and receive a refund of accumulated contributions; provide that the election to not participate or discontinue participation in the Legislators' Retirement Plan or the Kentucky Employees Retirement System applies to all future service of the General Assembly; amend KRS 6.505, 61.510, and 61.525 to conform; EMERGENCY.
(Prefiled by the sponsor(s).)

BR247 - Senator Dennis Parrett (10/4/2017)

AN ACT relating to kinship care.
Amend KRS 605.120 to permanently establish a kinship care program.
(Prefiled by the sponsor(s).)

BR248 - Senator Dennis Parrett (9/29/2017)

AN ACT relating to educational programs.
Create a new section of KRS Chapter 158 to require the Department of Education to develop academic standards for a financial literacy program to be implemented by each public high school; require the financial literacy program to be completed for high school graduation; direct the department to determine the implementation date.
(Prefiled by the sponsor(s).)

BR271 - Senator Danny Carroll (10/12/2017)

AN ACT relating to the safety of canines and felines.
Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.
(Prefiled by the sponsor(s).)

BR275 - Representative C. Wesley Morgan Oct 26-WITHDRAWN

BR285 - Representative Regina Huff

(10/19/2017)

Apply to Congress Article V of the Constitution of the United States for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government and that limit the powers and jurisdiction of the federal government; state that the application be aggregated with the applications of other states and limited for the purposes identified in the applications; state that the application be a continuing application until a convention is called or until the application is withdrawn by the Kentucky General Assembly.

(Prefiled by the sponsor(s).)

BR305 - Representative C. Wesley Morgan (10/24/2017)

AN ACT relating to public protests.
Create a new section of KRS Chapter 525 to create a Class A misdemeanor, disruption of a public protest, for a person who wears a mask or hood concealing his or her face while engaging in a public protest; create a new section of KRS Chapter 525 to create a Class A misdemeanor, obstruction of traffic; abolish criminal or civil liability for a motor vehicle operator who causes injury or death to a person obstructing the flow of traffic during a public demonstration for which a permit has not been granted, unless the infliction of injury or death is intentional; create a new section of KRS Chapter 522 to prohibit any person, including a public servant, from preventing a peace officer from performing official duties at a protest.

(Prefiled by the sponsor(s).)

BR310 - Representative James Tipton (10/31/2017)

AN ACT relating to educational programs.
Create a new section of KRS Chapter 158 to require the Department of Education to develop academic standards for a financial literacy program to be implemented by each public high school; require the financial literacy program to be completed for high school graduation; direct the department to determine the implementation date.

(Prefiled by the sponsor(s).)

BR312 - Representative James Tipton (10/26/2017)

AN ACT relating to drug education.
Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations to require physical and health education instruction in drug abuse prevention and the connection between abuse and addiction to other drugs; require the Office of Drug Control Policy to develop recommendations for the instruction in drug abuse prevention to be published on the Web site of the Department of Education.

(Prefiled by the sponsor(s).)

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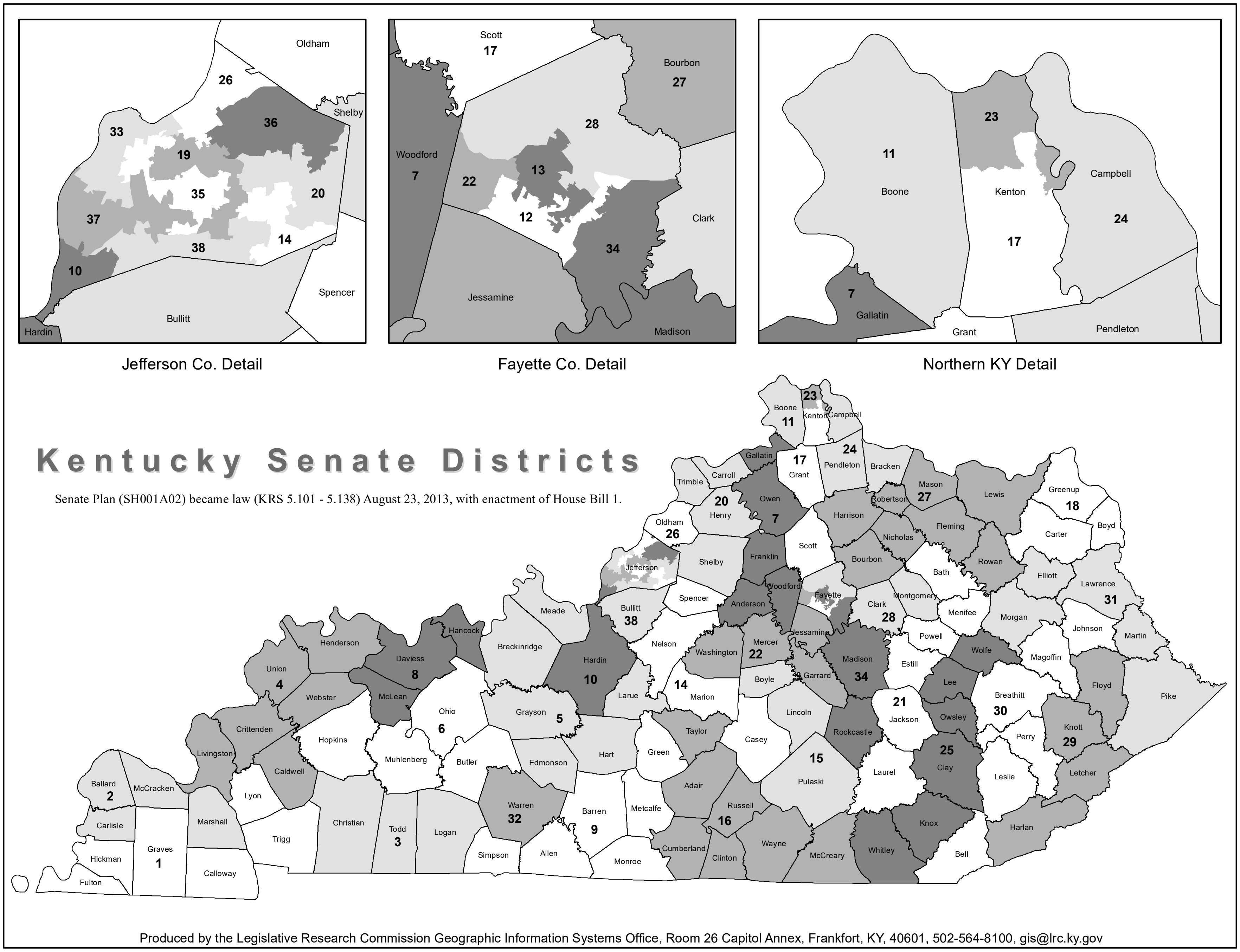

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Boone
Kenton
Campbell
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Gallatin
Grant
Pendleton
Northern KY Detail
Boone
11
Kenton
Campbell
23
Gallatin
17
Grant
24
Pendleton
Bracken
Trimble
Carroll
20
Henry
Owen
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Mason
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Robertson
Lewis
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18
Harrison
Fleming
Boyd
Carter
Oldham
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Nicholas
Franklin
Scott
Shelby
Jefferson
Bourbon
Bath
Rowan
Elliott
Lawrence
31
Woodford
Fayette
Montgomery
Spencer
Anderson
Clark
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Menifee
Morgan
Johnson
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McCracken
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Warren
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Marshall
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Logan
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Trigg
Graves
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Wayne
Hickman
Simpson
Allen
Monroe
Cumberland
Clinton
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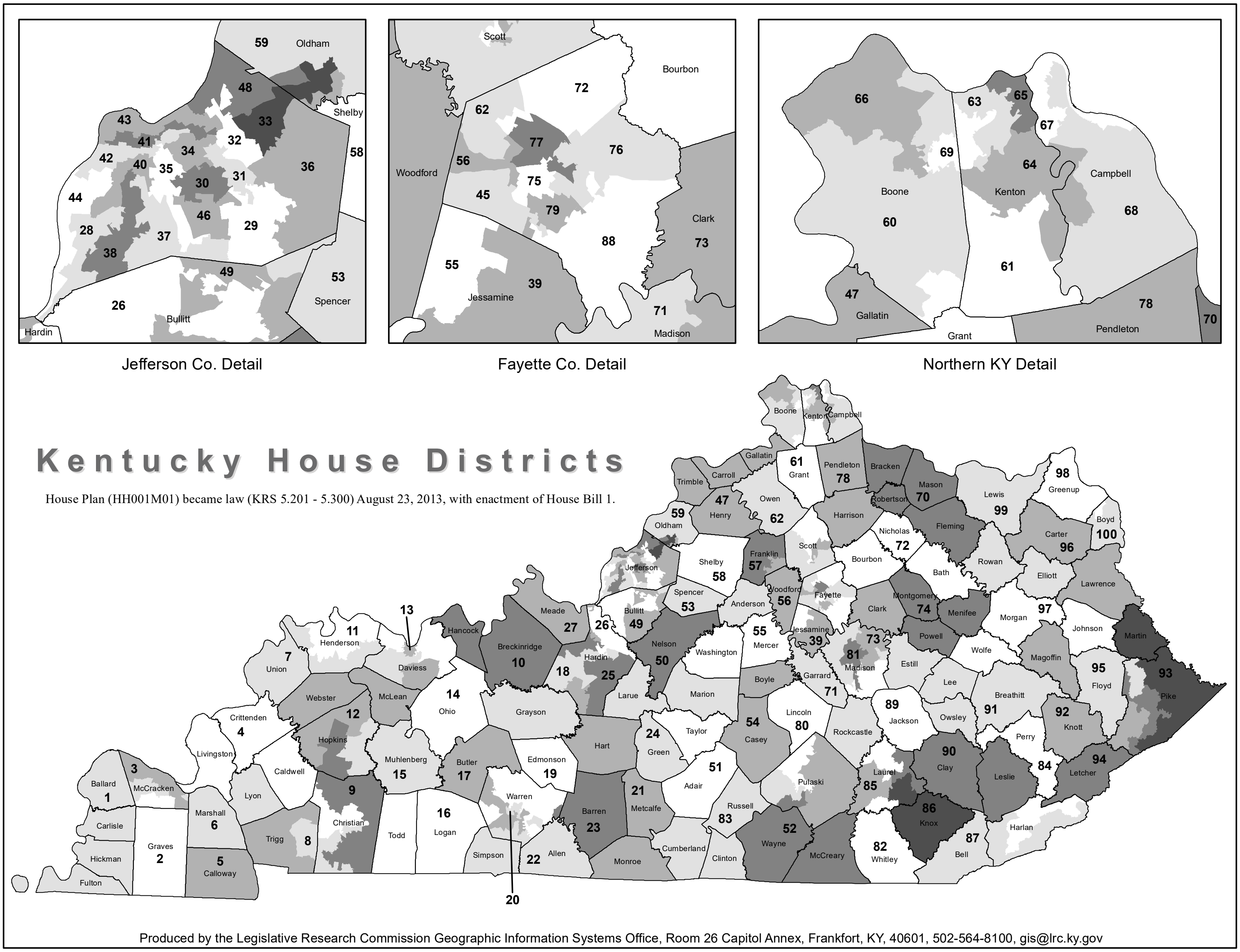
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