2014 Interim

# LEGISLATIVE RECORD

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# Police militarization debated by panel

by Rebecca Hanchett
*LRC Public Information*


Interim Joint Committee on Local Government Co-Chairs Sen. Joe Bowen, R-Owensboro, at left, and Rep. Steve Riggs, D-Louisville, speak before the September meeting.

The use of military-style equipment by police in Ferguson, MO this summer was not a first in America—in fact, many local police departments in the U.S. have equipment ranging from assault rifles to armored vehicles, usually paid for with federal funds.

Views on whether or not local police need, or properly use, military-style equipment, however, differ depending on who you ask.

Some, like EKU Professor Dr. Peter Kraska, say the equipment is sometimes used by SWAT teams in drug raids on private homes. He told the Interim Joint Committee on Local Government on Sept. 24 that there have been 60,000 of these contraband raids nationally as of 2014, calling the raids "the misapplication of the military model."

Jeffersontown Police Chief Rick Sanders, who has 40 years in law enforcement including 24 years as a federal drug enforcement agent, said his "experience has shown that police officers need the equipment for their job." One reason, he added, is that police "can't rely upon the military. And when we're out there in the middle of the night responding to an active shooter situation, it might be something that we need."

At his department in Jeffersontown, Sanders said military equipment received through the federal government has included stretchers, winter clothing, and first aid materials. As far as private issue and military issue armored vehicles are concerned, Sanders said those are needed, too—especially in large cities like Louisville, or in Miami where Sanders worked with the DEA in the 1980s.

"We're no longer dealing with sling shots and fishing sinkers. We're dealing with automatic weapons. And you know, the military's not going to respond," said Sanders.

Rep. Julie Raque Adams, R-Louisville, mentioned balancing the cost of equipment with the cost of putting more police on patrol. She said additional taxes were recently imposed in Louisville to hire

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## Lawmakers inquire about prison death

by Jim Hannah
*LRC Public Information*

James Embry had just three years left on a nine-year sentence for drug offenses when guards found the 57-year-old man who had been on a hunger strike unresponsive on the toilet in his isolation cell at the Kentucky State Penitentiary.

He died of dehydration with starvation and several other medical ailments as secondary causes.

State Rep. Brent Yonts, D-Greenville, recited these details from a Department of Corrections report in explaining why the Interim Joint Committee on State Government requested testimony on Sept. 24 concerning health care services in Kentucky's correctional system.

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# Prison death,
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"As prison medical staff looked on, (Embry) slowly died of starvation," said Yonts, who co-chairs the committee. "He lost 30 pounds in a short period of time."

After hearing additional details about Embry's mental health, Rep. Darryl Owens, D-Louisville, said he thought the committee had an oversight responsibility to ensure other mentally ill prisoners on hunger strikes are not allowed to starve to death.

"I'm having difficulty getting my head around a prisoner dying of starvation," he said.

Owens said the committee had to be cautious, however, not to disrupt any civil or criminal litigation concerning the death.

Erwin said the corrections department has revised its hunger strike protocol.

"I don't want to ask any question because of a potential investigation but that potential investigation could exist for two or three years and nothing ever happen," Owens said.

Jim Erwin, a deputy commissioner with the Department of Corrections, said his department provided its report into the Jan. 13 death to Kentucky Attorney General Jack Conway for review.

Erwin, who oversees the Office of Adult Institutions, said he did not know if Conway had launched a formal investigation when asked about the status of the attorney general's review.

Yonts said committee staff told him there was not a current criminal investigation, but concerns of possible litigation almost caused legislators to table the topic. Yonts said he did not want to impair anyone's rights but added the details of the death had already been widely reported in the press.

Yonts noted that the failures included having prisoners monitored by staff too short to see into cell windows. There were also medical staff shortages, infighting among staff and people simply not doing their job, Yonts said.

Erwin said the corrections department has revised its hunger strike protocol, implemented a new medical contract with an outside vender, improved training and increased oversight.

After hearing the testimony, Yonts told Erwin that it sounded like the corrections department had made significant strides in taking steps to prevent a similar death.

# Rural issues aired before panel

by Rebecca Hanchett
*LRC Public Information*

The state's Build-Ready program is helping communities attract companies to Kentucky with construction-ready sites instead of existing buildings.

All ground work at a Build-Ready site –including environmental work and grading—must be finished for a site to qualify under the new program announced in April, Will McDowell with the Cabinet for Economic Development's Department for Business Development explained to the General Assembly's Subcommittee on Rural Issues on Oct. 8. "We're just short of an existing building, but we can now compete with projects that require a building."

McDowell said two Build-Ready sites will be announced by state officials within the next month.

More companies are looking for existing buildings in which to locate, said McDowell, although Kentucky "is somewhat lacking in inventory" compared to competing states like Ohio, Indiana, and Tennessee. Kentucky has about a quarter of the existing building inventory that those states have, he said.

"Our answer to that is to work with what we've got, and what we've got is plenty of land," he said.

"The goal of (this) is to help more communities qualify and compete for more projects" without requiring communities to build a "spec," or shell, building that can require millions of dollars in investment, said McDowell. Spec buildings can cost a community anywhere from $2 million to $4 million "on up… With this, it's probably a safe estimate (that) you're looking at maybe a dollar a square foot, maybe a little bit more of investment," he said.

Subcommittee Co-Chair Rep. Mike Denham, D-Maysville, explained how the program—which offers developed ready-to-build land—contrasts with undeveloped lots called greenfields. Companies aren't interested in developing greenfields anymore, said Denham.

"They want to see the streets, and the gutters, and the curbs and everything ready for them. It used to be 20 years ago they didn't mind developing a greenfield, but not anymore—that's a thing of the past," he said.

Sen. David Givens, R-Greensburg, asked McDowell to clarify how Build-Ready standards are applied in communities. "One community can say we've got the plans and another community can say we've got the plans and the financing and the contractor's ready to go. So what is the standard?" McDowell said a full development plan "with timelines and cost" concerning extending utilities to the site is part of what's required.

"That's all laid out and planned, and it's committed by the utility providers themselves rather than the communities," he told Givens.

The subcommittee also heard from the Cabinet for Economic Development's Chief of Staff Hollie Spade and Shawn Rogers from the Cabinet's Office of Entrepreneurship on programs like the SOAR (Shaping Our Appalachian Region) initiative which is focused on economic development in 54 East Kentucky counties.

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# Police, from page 1

additional police officers "because we don't have enough officers."

Kraska said equipment is important but "from a public policy standpoint, what's a wise expenditure of money: a $300,000 (armored vehicle), or more officers?" adding that the vehicle will "likely never be used in a real scenario in most localities."

Sanders said there has to be a balance, adding "I'm not trying to say that it should be spent on armored vehicles; it should be spent where needed. But give the police the tools they need to do their job."

In response to Kraska's claim of police "misapplication" of military-style equipment, House Local Government Committee Chair Rep. Steve Riggs, D-Louisville, hinted that oversight may be at issue.

"What I see missing is there doesn't seem to be anybody in charge of determining where is the misapplication in the beginning," Riggs said.

Reading from a list of military-style equipment received by local law enforcement agencies around Kentucky, Riggs said Allen County has 16 M16 assault rifles and three law enforcement agencies—Lexington-Fayette County, Pulaski County, and Scott County—have received helicopters.

"There may be people who say it's surplus… and here's why we need it," explained Riggs, "but … we're missing someone who's not biased who says 'perhaps that's a misapplication, and you don't need 16 (rifles), maybe you need three,'" he continued.

# State's insurance industry gets clean bill of health, state lawmakers told

by Jim Hannah
*LRC Public Information*

Rep. Ron Crimm, R-Louisville, speaks at the Sept. 23 meeting of the Interim Joint Committee on Banking and Insurance.

Kentucky lawmakers received a report last month concerning the state of the insurance industry as it adjusts to the Affordable Care Act and increased fraud while trying to control costs.

"The insurance industry in Kentucky is healthy," Department of Insurance Commissioner Sharon Clark told members of the Interim Joint Committee on Banking and Insurance on Sept. 23. "We have a stable market here today. Companies and agents want to do business here."

In 2008, when Clark first took over the department, 1,615 companies and 120,566 people were licensed to sell insurance in Kentucky. Today, she said the state has 2,026 companies and 174,000 people.

Clark said Kentucky ranks 27th in the nation in the amount of insurance premiums collected. In 2008, $16.5 billion in premiums was collected. Last year, it was $21.5 billion.

The state collected $138 million and local governments collected $250 million in taxes on insurance premiums last year, Clark said. Kentucky is one of only six states to allow such a tax.

"That is a very good source of revenue for local government," said Clark. "They depend upon that."

Clark said two additional insurance companies, WellCare Health Plans of Kentucky and Humana's CareSource, have decided to sell private health insurance plans in the state.

"As you know, it has been a struggle for many years to increase competition across the state," she said.

Clark said insurers are adjusting to the Affordable Care Act in Kentucky although there have been issues with prescription reimbursements and appeals of denied coverage.

"Our basic huddle is we are dealing with some people who have never had health insurance before," she said. "We have to do a lot of education. People didn't know what the difference was between a co-pay, premium and deductable. It's really been a challenge."

Sen. Julie Denton, R-Louisville, asked what the insurance department was doing concerning inconsistencies in the required coverage of smoking cessation programs. She said some insurers were covering counseling and not the pharmacological options.

D.J. Wasson, of the department of insurance, said that was a national issue concerning the definition of the "preventive care benefit" clause of the Affordable Care Act. She added states are seeking guidance from the federal government on that issue.

Clark said the successes involving insurance in Kentucky are not confined to the Affordable Care Act. She said for the ninth consecutive years cost of workers' compensation insurance has decreased.

"That has a tremendous boost for our employers," said Clark. "I think the labor cabinet has done a very good job. They have had a very aggressive campaign on trying to work with Kentucky employers on safety in the workplace."

She added that Kentucky also has the ninth lowest rate in the nation for workers' compensation insurance. The average loss in Kentucky is $1.11 per $100 of pay rate. The national average is $1.34.

She said the average for the region – including

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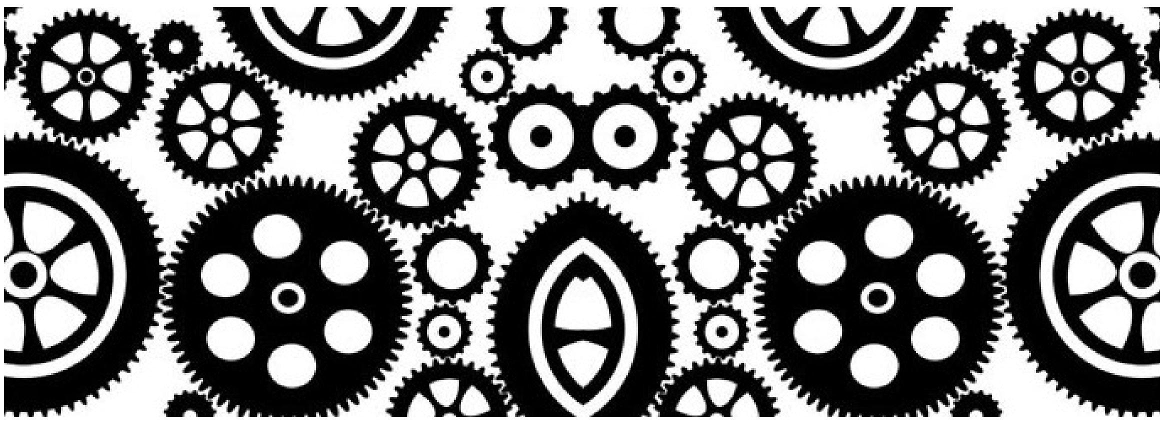
# Lawmakers discuss legalization of 'pedal while you drink'

by Jim Hannah
*LRC Public Information*



NICHOLASVILLE – State lawmakers were asked on Oct. 10 to amend a law to allow passengers to consume alcohol on human-powered four-wheeled bicycles, although the driver steering and braking couldn't drink.

Often called "party bikes," these 15-seat quadricycles have become popular in metropolitan areas across the United States, Rep. Brad Montell, R-Shelbyville, said while testifying before the Interim Joint Committee on Licensing and Occupations.

"You may think it is just a novelty business, but it is truly about economic development," he said. "They add a new dimension to cities. They add new options for tourists and residents alike."

Legislation (House Bill 86) passed the House during the regulation session earlier this year but did not to make it out of committee in the Senate.

Montell said he wanted the committee to hear testimony about the proposed change before a similar bill was prefilled for the upcoming session. The legislation would do three things: Create a legal definition for quadricycles, direct that local governments regu-

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# Build-Ready,
## from page 2

Spade said the Cabinet continues "to assist those who are coming up with some creative solutions and trying to help where we can with those." Other Cabinet programs affecting rural Kentucky are marketing of the Next Generation Kentucky Information Highway and the Kentucky Innovation Network, among others.

The meeting concluded with a report on trends in the state's job market from Ron Crouch and Melissa Aguilar of the Kentucky Education and Workforce Development Cabinet. Crouch, who works in demographics, said his rural data shows the largest increase in education performance in the state is in rural counties.

# Pedal,
## from page 3

late quadricycles and exempt passengers on quadricycles from existing statutes that prohibit individuals from drinking in public places.

"In other words, if you passed the bill, passengers could imbibe while on the bike," he said. "They could not step onto the sidewalk with a drink."

Scott Benningfield testified that he owns a quadricycle business in Louisville that he is expanding to Lexington. He predicted that his business would double if quadricycle passengers could bring their own alcohol.

He said there are 59 licensed quadricycles in the eight states that allow passengers to consume alcohol compared to 31 quadricycles in the 18 states that do not allow passengers to drink.

There are 24 states with no known quadricycle businesses.

Benningfield emphasized that the drivers for these quadricycle businesses do not drink while working and maintain complete control of steering and braking. The passengers provide the propulsion.

"It is 100 percent pedal-powered," he said. "There is no motor. We do have a battery on the bike but it is only for the headlights, brake lights, turn signals and overhead lights."

Sen. John Schickel, R-Union, who is co-chair of the committee, encouraged Benningfield to keep an open dialog with state regulators and legislators as he attempts to change the law.

"There are people that have concerns about this," Schickel said.

# Lawmakers briefed on tobacco MSA developments

by Rebecca Hanchett
*LRC Public Information*

State lawmakers were briefed Oct. 1 on an agreement reached between the state and tobacco manufacturers that should bring Kentucky $57 million more in tobacco settlement funds over the next three years.

The agreement, announced in June, settles a decade of disputed MSA (Master Settlement Agreement) claims dating from 2003 to 2012 and ensures the Commonwealth will continue to receive MSA payments, according to state officials. The 1998 MSA between 52 governments and major tobacco companies has brought more than $400 million in MSA funds into Kentucky's agricultural economy, funding over 4,800 agriculture projects in the state since 2001.

The 1998 MSA has brought more than $400 million in MSA funds into Kentucky's agricultural economy, funding over 4,800 agriculture projects since 2001.

The agreement "eliminates, or greatly reduces, our liability for any future litigation costs for those years," Kentucky Governor's Office of Agricultural Policy Executive Director Roger Thomas told the General Assembly's Tobacco Settlement Agreement Fund Oversight Committee. "That's a huge issue, and something we should be very proud of."

Responding to a question by Sen. Carroll Gibson, R-Leitchfield, on whether the state has over-programmed water and sewer projects supported with state tobacco dollars, Thomas said the state Agricultural Development Fund (ADF) has "bore the burden of paying the debt service on those water and sewer projects" for tobacco-dependent counties in recent years as Kentucky's MSA payment declined and the debt service amount rose.

Today, that debt service is around $28-30 million annually, said Thomas.

The agreement reached in June provides "a cushion" to support the state ADF's need to fund that debt service as well as county agriculture needs, he explained.

In response to another question by Gibson, Thomas explained that debt service on water and sewer projects funded by MSA payments are paid through grants, not loans, which means the money does not have to be paid back by local water and sewer districts.

"If, for instance, we were to get into a situation like that again—which we probably won't—(but) if and when we had infrastructures like that, we all know the payments come in after the projects are put in … Could there be a situation where some payments (could be funded) with basic payback of the funding that they're going to be receiving with installation of these projects?" asked Gibson. Thomas said that would be a policy decision left up to lawmakers.

There are other funding options for water and sewer projects, said Committee Co-Chair Sen. Paul Hornback, R-Shelbyville. "I know the local board that I'm on, we can go out and bond moneys if we need to that we have to repay. So there are other avenues they can use, with low interest rates."

The committee also received reports from the GOAP's Joel Neaville, who updated lawmakers on the actions of the Agricultural Development Board for September.

In response to Neaville's report on the ADF's 2014 On-Farm Energy Program, Committee Co-Chair Wilson Stone, D-Scottsville, asked how the energy funds can help dairies achieve savings. Thomas said variable speed motors, improved lighting, energy-efficient water heating systems, and energy-efficient milk cooling systems are among the "approved" items under program guidelines. That drew a comment from Rep. Terry Mills, D-Lebanon, who was told the On-Farm Energy Program is focused on energy-efficient upgrades.

"I know I replaced my heat pump recently and I actually saw a difference in my electric bill," said Mills.

The committee also heard from the Kentucky Division of Conservation's Kimberly Richardson on the state's soil erosion and water quality cost share program and soil stewardship program.

# 2015 REGULAR SESSION CALENDAR

**JANUARY – PART I**

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|
| | | | | 1 | 2 | 3 |
| 4 | 5 | 6 Part I Convenes (1) | 7 (2) | 8 (3) | 9 (4) | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 Martin Luther King, Jr. Day | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

**FEBRUARY – PART II**

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 Part II Convenes (5) | 4 (6) | 5 (7) | 6 Last day for new bill requests (8) | 7 |
| 8 | 9 (9) | 10 (10) | 11 (11) | 12 (12) | 13 Last day for new Senate bills (13) | 14 |
| 15 | 16 Presidents' Day HOLIDAY | 17 Last day for new House bills (14) | 18 (15) | 19 (16) | 20 (17) | 21 |
| 22 | 23 (18) | 24 (19) | 25 (20) | 26 (21) | 27 (22) | 28 |

**MARCH**

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|
| 1 | 2 (23) | 3 (24) | 4 (25) | 5 (26) | 6 Concurrence (27) | 7 |
| 8 | 9 Concurrence (28) | 10 VETO | 11 VETO | 12 VETO | 13 VETO | 14 VETO |
| 15 | 16 VETO | 17 VETO | 18 VETO | 19 VETO | 20 VETO | 21 |
| 22 | 23 (29) | 24 SINE DIE (30) | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

**( ) Denotes Legislative Day**

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# Committee Meetings

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## INTERIM JOINT COMMITTEE ON AGRICULTURE

**Minutes of the 4th Meeting of the 2014 Interim**

September 5, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Agriculture was held on Friday, September 5, 2014, at 10:00 AM, at the E.S. Good Barn, 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 Tom McKee, Co-Chair; Senators Walter Blevins Jr., David P. Givens, Dennis Parrett, Damon Thayer, and Robin L. Webb, Representatives Mike Denham, Jim Glenn, Derrick Graham, Richard Heath, James Kay, Kim King, Michael Meredith, Suzanne Miles, Terry Mills, Sannie Overly, Ryan Quarles, Tom Riner, Bart Rowland, Jonathan Shell, John Short, Rita Smart, Wilson Stone, and Tommy Turner.

Legislative Guests: House Speaker Greg Stumbo and Representative Jim Gooch.

Guests: Drew Graham, Assistant Dean, UK College of Agriculture, Food and Environment; Dr. Eli Capilouto, President, University of Kentucky; Dr. Nancy Cox, Dean, UK College of Agriculture, Food and Environment; Dr. Jimmy Henning, Associate Dean for Extension, UK College of Agriculture, Food and Environment; Dr. Larry Grabau, Associate Dean for Instruction, UK College of Agriculture, Food and Environment and Dr. Will Snell, Department of Agricultural Economics, UK College of Agriculture, Food and Environment.

LRC Staff: Tanya Monsanto, Lowell Atchley, Kelly Ludwig, Stefan Kasacavage and Susan Spoonamore, Committee Assistant.

The August 21, 2014 minutes were approved without objection upon motion made by Representative Sannie Overly and second by Representative Ryan Quarles.

**Welcome and Opening Remarks**

Dr. Eli Capilouto, President, University of Kentucky (UK) discussed current projects and recent announcements at the university. He said that Mr. Bill Gatton had gifted UK $20 million to support a new student center. UK recently announced a record breaking enrollment of first year students. The university is in the middle of several construction projects totaling approximately one billion dollars. UK is looking at creative ways to finance future projects. For example, it has a 15 year contract with Aramark, guaranteeing approximately $245 million in new facilities, renovations and commissions while lowering dining prices and meal plans for students. Aramark committed approximately $5 million to purchasing local or Kentucky Proud foods. Dr. Capilouto said he will address the Board of Trustees about the need for a multidisciplinary research facility. The university is focusing on serving the Commonwealth through new partnerships. An emphasis on food, nutrition and the health of the Commonwealth is essential as the university moves forward.

In response to Senator Robin Webb, Dr. Capilouto said that former dean Scott Smith and a committee reviewed and vetted the companies that were interested in providing food service to the university. Aramark is a Fortune 500 company. The committee will address any concerns raised about the quality of food or service.

In response to Representative Rita Smart, Dr. Capilouto agreed that ovarian cancer screening research at the university has made a difference. Participation in colorectal screening is also showing positive differences in preventable deaths.

Chairman Hornback commented on the tour of the hemp research plot at UK's Spindletop Research Farm before the start of the meeting. He asked Mr. Andy Graves and Mr. Tom Hutchens to discuss the research plot. Mr. Graves, a promoter of hemp, said the question of whether hemp is a viable industry for Kentucky still needs to be discussed and additional research is needed. Mr. Hutchens explained that the high quality of hemp seeds produces protein, oils, and high omega products. Canada is diversifying its hemp products and is exporting 75 percent to the United States. The United States will need to look at infrastructure and give states flexibility for development and research.

**UK College of Agriculture, Food and Environment Programs**

Drew Graham, Assistant Dean, UK College of Agriculture, Food and Environment, welcomed members to their 10th year of attending UK Roundup. He introduced Dr. Nancy Cox, Dean, UK College of Agriculture, Food and Environment, who has been busy promoting UK agriculture.

Dean Cox stated that the hemp research plot had tested the agronomic skills of the land grant agriculture college. UK is celebrating 100 years of extension. The university takes statewide prosperity seriously. UK is working to take a collaborative approach with the Centers for Disease Control to reduce obesity across Kentucky. Public/private partnerships may also be involved. She said the equine science programs are growing.

In response to Chairman Hornback, Dean Cox said the freshman class have a record enrollment.

Dr. Will Snell, Department of Agricultural Economics, UK College of Agriculture, Food and Environment, said Kentucky still has good income in land values, but the agriculture economy goes through cycles. Because of high prices on corn and soybeans, farmers planted more acres of grain, which will impact the market by having excess grain. The market prices will probably decrease. Dr. Snell said he attended federal farm bill training to get some educational initiatives started. Farm Service Agencies are trying to understand new regulations so they can relay the information to farmers. The livestock market is prospering, and this should continue. The last tobacco payments are being made in September to farmers who participated in the buy-out program. Farmers who are still growing tobacco may face excess tobacco on the market. Companies will be more selective in tobacco grading, which means lower returns. Dr. Snell said that the equine section is cautiously optimistic that fall sales will be strong. November projections for agriculture as a whole look good. Kentucky should place a renewed emphasis on international export marketing.

In response to Chairman Hornback, Dr. Snell said the dairy industry is doing better because of higher milk prices and lower grain prices.

In response to Senator Dennis Parrett, Dr. Snell said the Farm Service Agency will be updating and correcting information that was sent earlier regarding yields and acreages. Signup will continue through February or March of 2015.

Representative Suzanne Miles stated that the Farm Service Agency realizes there is a problem with the burden of proof inherent on the farmers or landowners to prove acreage or yields.

Dr. Jimmy Henning, Associate Dean for Extension, UK College of Agriculture, Food and Environment, explained that Kentucky was one of the few states that had extension agents before they were available nationwide. There are only eleven vacancies. Some local governments have stepped up to provide funding for their local agents. Extension is partnering with the Kentucky Department of Agriculture in the Plate It Up program. This program has improved nutrition for 7,200 adults and 3,200 children. The college is also involved in the Agriculture Water Quality Act. 4-H involvement is part of a community's fabric. Children in 4-H are more likely to become civic minded and geared toward a scientific career.

In response to Chairman Hornback, Dr. Henning said that the Environmental Protection Agency wants to define its control in the Agriculture Water Quality Act but that more conversation is needed.

Chairman Hornback stated that the language contained in the Act leaves a lot of room for misinterpretation and is unfair to the agricultural community.

In response to Senator Robin Webb, Dr. Henning explained that the 4-H Livestock Volunteer Certification Program and the annual continuing education training is about providing young people the very best educational experience.

In response to Senator Walter Blevins, Dr. Henning said that 108 counties have county funding. County funding makes a difference in the quality of programs offered through Extension.

Dr. Larry Grabau, Associate Dean for Instruction, UK College of Agriculture, Food and Environment stated that 399 freshman had enrolled so far for 2014. The retention rate for freshman continuing into their sophomore year is excellent. Classes for equine science are up, but agriculture economics, social science and human nutrition are down. Initiatives for improving programs include hiring additional academic coordinators and master level professionals whose role is to work directly with students. The college is adding several new programs and strengthening student initiatives.

Chairman Hornback recognized Commissioner James Comer, Kentucky Department of Agriculture. Commissioner Comer commended everyone involved in promoting the new beginning farmer program.

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

## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Subcommittee on Horse Farming
### Minutes of the 1st Meeting
### of the 2014 Interim

October 8, 2014

**Call to Order and Roll Call**

The 1st meeting of the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture was held on Wednesday, October 8, 2014, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Sara Beth Gregory, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Susan Westrom, Co-Chair; Senators Paul Hornback, Dennis Parrett, and Robin L. Webb; Representatives Lynn Bechler, Derrick Graham, James Kay, Martha Jane King, Michael Meredith, David Osborne, Sannie Overly, Ryan Quarles, Tom Riner, and Wilson Stone.

Guests: Mr. Dave Stefanic, Executive Director, Mountain Saddle Horse Association; Ms. Amy Lawyer and Dr. Fernanda Camargo, University of Kentucky College of Agriculture, Food, and Environment.

LRC Staff: Lowell Atchley, Tanya Monsanto, and Kelly Blevins.

**Kentucky Mountain Saddle Horse Association**

Mr. Dave Stefanic, Executive Director of the Kentucky Mountain Saddle Horse Association and the Spotted Mountain Horse Association, testified about the history of the breed. A saddle horse was bred and raised by Appalachian Mountain residents to be used as a pleasure and farm work horse for hundreds of years. The lineage of the breed traces to Spanish explorers and European settlers. He called the horse the "jewel of the Appalachians."

Mr. Stefanic said Robert "Junior" Robinson founded the Mountain Saddle Horse Association in 1989. The Spotted Mountain Horse Association was created in 2002 to recognize the spotted version of the horse. There are over 26,000 registered Kentucky Mountain Saddle Horses and almost 3,000 single and family members of the association.

Responding to Senator Gregory, Mr. Stefanic described the standards for the breed. The smooth gait is important, as is the temperament of the horse and the color. The horse has a good personality and is very durable. Two breed examiners check horses submitted for registry; some applications are rejected.

In a response to Co-Chair Westrom, Mr. Stefanic said the Mountain Saddle Horse is a horse that children and the elderly can ride safely.

Mr. Stefanic discussed the association's defense of a lawsuit filed in Florida by a man running a breed operation and conducting shows in that state. The $120,000 in damages ordered in the suit against the association will harm the organization.

Mr. Stefanic noted the importance of the Breeder's Incentive Fund Program money that enables the association to offer purses during its International Grand Championship Show at the Kentucky Horse Park in October. Co-Chair Gregory said that Senator Thayer sponsored the legislation creating the program.

**Kentucky 4-H Horse Program**

Amy Lawyer, Equine Extension Associate with the University of Kentucky College of Agriculture, Food, and Environment, testified about the Kentucky 4-H Horse Program. She was accompanied by Dr. Fernanda Camargo, Horse Extension Specialist.

Ms. Lawyer said that the program has a number of objectives geared toward developing leadership, initiative, self reliance, teaching citizenship, and promoting and developing experience in working with and caring for horses. A 4-Her's horse is a tool that teaches the young person the many uses of a horse.

She discussed key aspects of the program: horse volunteer certification, judging and horsemanship clinics for participants, body condition scoring workshops (which stress the health of the horse), and two events, Saddle Up Safely and the Kentucky Youth Festival.

She discussed the 4-H district programs and the state judging, state horse competitions, the state horse show (with about 700 youth competing), and the regional and national 4-H competitions.

Representative Stone expressed appreciation for the 4-H Horse Program and said that it appeals to a lot of youth. Ms. Lawyer said a young person does not need to own a horse to participate. There are many children, such as those in urban areas, who first enter the program having never come into contact with horses. Youth participants must "declare" a horse as a project.

Senator Webb said that the Kentucky 4-H Horse Program is recognized nationally, and other states have modeled their programs after Kentucky's. The program is one of youth development with positive aspects such as acquainting youth with agriculture.

Senator Hornback discussed judging dairy cattle when he was young. He said that any youth development programs are good.

Representative Kay discussed the importance of the horse industry to Kentucky. The reality of the industry is that there are many hard-working families who are involved with horses. He urged legislation to assist the industry.

Documents distributed during the meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Subcommittee on Rural Issues
### Minutes of the 1st Meeting
### of the 2014 Interim

October 8, 2014

**Call to Order and Roll Call**

The 1st meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture was held on Wednesday, October 8, 2014, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Mike Denham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Mike Denham, Co-Chair; Senators David P. Givens, Paul Hornback, and Whitney Westerfield; Representatives Jim Glenn, Richard Heath, Kim King, Terry Mills, Bart Rowland, Steven Rudy, Jonathan Shell, and John Short.

Guests: Hollie Spade, Chief of Staff, Kentucky Cabinet for Economic Development, Will McDowell, Department for Business Development, Kentucky Cabinet for Economic Development, Shawn Rogers, Office of Entrepreneurship, Kentucky Cabinet for Economic Development, Ron Crouch, Kentucky Education and Workforce Development Cabinet, Melissa Aguilar, Executive Director, Kentucky Workforce Investment Board.

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

**Job Opportunities in Rural Kentucky**

Ms. Hollie Spade, Chief of Staff, Kentucky Cabinet for Economic Development, discussed job opportunities in rural Kentucky. The cabinet has 197 active projects. Projects include Asian carp in western Kentucky, expansion in the food and beverage industry, bourbon industry in Shelby County, and the opening of Champion Pet Food's Logan County facility.

Ms. Shawn Rogers, Office of Entrepreneurship, Kentucky Cabinet for Economic Development, discussed the role of her newly created office. The Office of Entrepreneurship provides guidance and support to start-up operations and assists existing small businesses with growth opportunities. It is a central point of contact, connecting entrepreneurs and small business owners with resources. Programs include: Kentucky Innovation Network, Kentucky Small Business Credit Initiative, Kentucky Angel Investors Network, Kentucky Small Business Tax Credit, and Kentucky Export Initiative.

Mr. Will McDowell, Department for Business Development, Kentucky Cabinet for Economic Development, discussed the Build-Ready Program. Kentucky has less than half the building inventory of competing states. Build-Ready recognizes and promotes industrial sites that can be developed and built on quickly. Build-Ready sites are clear of environmental issues, and infrastructure extension plans are in place.

In response to Representative Denham, Ms. Spade stated there are approximately 30 Work Ready communities. There are 54 counties included in Shaping Our Appalachian Region (SOAR).

In response to Representative King, Ms. Rogers said that the annual summit will be held at the Kentucky History Center in Frankfort, Kentucky on November 13, 2014. Asian carp are the cause of fish being the fastest growing export, with a 362 percent increase in fish exports.

In response to Senator Givens, Mr. McDowell stated that the Build-Ready program has a set of standards for costs and utilities. The standards are established by the providers. Build-Ready was launched in April 2014, and the Cabinet for Economic Development plans to announce the first Build-Ready site in one month.

In response to Representative Heath, Ms. Spade stated that Kentucky's workforce is the number one concern. The Cabinet for Economic Development is partnering with the Kentucky Education and Workforce Development Cabinet to enhance training and education. Other states have closing funds; Kentucky does not have closing funds.

In response to Senator Hornback, Ms. Spade stated that community colleges are working to address industry needs and to create industry, educational, and technical partnerships.

**Current Trends in Kentucky's Job Market**

Ms. Melissa Aguilar, Executive Director, Kentucky Workforce Investment Board, stated that the Kentucky Skills Network connects companies with workforce solutions, matching employer needs to available workforce resources. Kentucky has 11 certified Work Ready communities and 25 certified Work Ready in Progress communities. Other communities have issued a letter of intent or are in the formative stage. Some job challenges in rural areas include geographic barriers, technology access, educational attainment, and skills gaps.

Mr. Ron Crouch, Kentucky Education and Workforce Development Cabinet, stated that middle-skilled jobs are in most demand. Healthcare is Kentucky's major employer; manufacturing, due to automation, has declined. The number of high school and associate degrees has increased.

Mr. Crouch stated that counties throughout Kentucky vary widely in pay scales for manufacturing jobs. Some counties may pay approximately $1,300 per week while other counties may pay $500 per week on average. A major challenge in rural Kentucky is that much of the economy is a cash or "underground" economy.

Representative Glenn complimented Mr. Crouch and Ms. Aguilar on the information presented and stated that he utilizes the information in the classroom.

In response to Representative Short, Mr. Crouch stated that a new road should be beneficial to Representative Short's area. Access to roads is always important.

In response to Representative Heath, Mr. Crouch stated that many counties have lowered pay levels due to the recession. Access to roads is important for Kentucky to be competitive.

In response to Representative Denham, Mr. Crouch stated that it is important for clinics to remain in rural areas. Many residents of rural areas want to get treatment locally and do not want to travel to urban hospitals for treatment.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Minutes of the 3rd Meeting
### of the 2014 Interim

August 28, 2014

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 28, 2014, at 9:30 AM, at the Northern Kentucky Convention Center in Covington, Kentucky. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Walter Blevins Jr., Tom Buford, Denise Harper Angel, Ernie Harris, Ray S. Jones II, Alice Forgy Kerr, Christian McDaniel, and Robin L. Webb; Representatives Johnny Bell, Dwight D. Butler, John Carney, Ron Crimm, Robert R. Damron, Mike Denham, Kelly Flood, Martha Jane King, Reginald Meeks, Steven Rudy, Sal Santoro, Rita Smart, John Will Stacy, Jim Stewart III, David Watkins, Jim Wayne, Susan Westrom, and Addia Wuchner.

Guests: Jeanne Schroer, Executive Director, Catalytic Fund; Gretchen Landrum, CEO, Northern Kentucky Convention Center; Geoff Mearns, President, Northern Kentucky University; Mike Conway, Chairman, Northern Kentucky Convention and Visitors Bureau; Eric Summe, CEO, Northern Kentucky Convention and Visitors Bureau; Harold Dull, Price Group, Inc.; Casey Barach, Executive Director, E-Zone; Thomas Prewitt, Attorney; Dr. G. Edward Hughes, President, Gateway Community and Technical College; Gregg Fusaro, Capital Investments Group, Inc.; Arn Bortz, Towne Properties, Inc.; Guy Van Rooyen, The Salyers Group, Inc.; Ed Riehl, Mayor, City of Bellevue; Sherry Carran, Mayor, City of Covington; Kenneth Rankle, Mayor, City of Dayton; Mary Brown, Mayor, City of Ft. Thomas; Kenneth Wynn, Mayor, City of Ludlow; and Jerry Peluso, Mayor, City of Newport.

LRC Staff: Pam Thomas, Charlotte Quarles, Jennifer Hays, Spring Emerson, Greg Rush, and Sheri Mahan

**The Catalytic Fund – Vision for the Urban Core**

Jeanne Schroer, Executive Director of the Catalytic Fund, discussed the history and function of the fund. The fund is a not-for-profit, privately funded company providing capital for high impact real estate development projects. It addresses the need for flexibility to attract investment for construction/rehabilitation of mixed-use real estate projects essential to revitalizing Southbank cities. The fund fills gaps between traditionally underwritten loans, developer equity, and a project's costs, plus it provides technical expertise to assist in developing projects. She provided a list of investors and supporters of the fund and provided examples of real estate projects funded through the Catalytic Fund. The fund is actively engaged in 20 developments representing over $375 million in investment in Southbank cities. Ms. Schroer discussed enhancements and additions to Commonwealth programs which would have significant economic development impact. These include expanding historic tax credits, land bank legislation and funding for development of innovation districts.

**Northern Kentucky Convention Center Expansion**

Gretchen Landrum, CEO of the Northern Kentucky Convention Center discussed the expansion of the convention center. The Northern Kentucky Convention Center opened in 1998 at a cost of $31.5 million and has been self-sufficient for the last 15 years. All upgrades and refurbishments have been paid through operating revenues not from state appropriations. The convention center has invested over $2 million in upgrades in the past 12 months. Ms. Landrum discussed the estimated 2.7 percent annual fiscal return on investment and the estimated 12.9 percent economic return on investment projected for the convention center. She discussed the economic losses incurred due to lack of convention center space. She presented an expansion request, asking for $3 million in state funds to update the planning study and explore for funding options to expand the convention center. The convention center has a verbal agreement with the IRS/GSA regarding the land surrounding the center. If an expansion project does not move forward soon, this verbal agreement may expire. If that happens, the center will be land locked and more business will leave Northern Kentucky for Cincinnati.

**Northern Kentucky University Expansion**

Geoff Mearns, President of Northern Kentucky University discussed proposed expansions. The university is requesting $97 million in state funds for design and construction of a Health Innovation Center, to be completed by the fall of 2017. He discussed the NKU student expenditure return on investment of state funds, and the economic impact of the university to the region.

**Importance of Tourism to Northern Kentucky**

Mike Conway, Chairman of the Northern Kentucky Convention and Visitors Bureau, Eric Summe, CEO of the Northern Kentucky Convention and Visitors Bureau and Harold Dull of the Price Group, Inc. discussed the importance of tourism to the Northern Kentucky region. Mr. Summe stated that tourism to the region fell by 24.4 percent between the 2012 – 2013 fiscal year and 2013 – 2014 fiscal year. The group compared economic development incentives offered by Kentucky to those offered by Ohio. They discussed Tourism Development Act sales tax incentives, requesting a 3-year extension for the Newport on the Levee project to an additional $5 million in sales taxes generated by the project for re-investment. This re-investment will generate additional jobs, payroll and sales taxes and stimulate the economy.

**Uptech/Urban Core Model for technology startups**

Casey Barach, Executive Director of E-Zone and Thomas Prewitt discussed building innovation districts in the Commonwealth. As the digital revolution broadens and deepens, tech industries have emerged as a force in creating jobs, spurring redevelopment of once blighted urban cores, and giving cities an economic and cultural jolt. They discussed the necessities for building innovation districts, highlighting the elements as related to the Northern Kentucky region. They discussed the need for a state supported innovation funding assistance program to develop tech companies in the area, suggesting that this be a matching dollar program.

**Higher Education - Overview and Impact on Urban Revitalization**

Dr. G. Edward Hughes, President, Gateway Community and Technical College discussed the need for an educated workforce to spur regional economic development. In the Northern Kentucky region, 76.13 percent of citizens aged 25 or older have either no college experiences or some college credits but no degree. Nationally, the average of persons with a college degree is 36 percent. He discussed the importance of having urban college campuses to offer support for urban citizens and businesses. He discussed utilizing local college availability as a economic development tool to attract new businesses to the region. He discussed the gradual migration of the Gateway campus to the Northern Kentucky urban core, and provided examples of urban building revitalization headed by the college.

**Requirements for a successful Urban Core**

Gregg Fusaro of Capital Investments Group, Inc., Arn Bortz of Towne Properties, Inc., and Guy Van Rooyen of The Salyers Group, Inc. discussed various real estate developments in progress in the Northern Kentucky region, and the economic impact of these projects. They discussed the use of historic building revitalization tax credits, and outlined the tax incentive package being offered by Ohio to entice real estate development to move to Cincinnati.

**Improving our cities**

Ed Riehl, Mayor, City of Bellevue; Sherry Carran, Mayor, City of Covington; Kenneth Rankle, Mayor, City of Dayton; Mary Brown, Mayor, City of Ft. Thomas; Kenneth Wynn, Mayor, City of Ludlow; and Jerry Peluso, Mayor, City of Newport discussed various ways to improve economic development in the Northern Kentucky region. All mayors discussed the importance of the preservation of their local historic districts, the availability of riverfront property for development, and the necessity to provide safe, inviting, walkable and bikeable neighborhoods.

There being no further business, the meeting was adjourned at 11:55 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

**Minutes of the 4th Meeting of the 2014 Interim**

September 25, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on

Thursday, September 25, 2014, at 1:00 PM, in Paducah, Kentucky. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Tom Buford, Denise Harper Angel, Ernie Harris, and Stan Humphries; Representatives Dwight D. Butler, John Carney, Myron Dossett, Kelly Flood, Martha Jane King, Steven Rudy, Arnold Simpson, Jim Stewart III, and Jill York.

Guests: Ms. Sandra Wilson, President, Paducah Chamber of Commerce; Dr. Barbara Veazey, President of West Kentucky Community and Technical College; Mayor Gayle Kaler, City of Paducah; Mr. Charles Martin, Senior Vice President of Paducah Economic Development; Ms. Jane C. Driskell, State Budget Director; Mr. John Hicks, Deputy State Budget Director, Office for Policy and Management; and Greg Harkenrider, Deputy Executive Director for Financial Analysis.

LRC Staff: Pam Thomas, John Scott, and Spring Emerson.

**Welcome to Paducah**

Ms. Sandra Wilson, President of the Paducah Chamber of Commerce, Dr. Barbara Veazey, President of West Kentucky Community and Technical College, Mayor Gayle Kaler of the City of Paducah, and Mr. Charles Martin, Senior Vice President of Paducah Economic Development welcomed the committee to Paducah. Mayor Kaler discussed several successful projects in the city, including a hotel, a boat launch and several road projects. Dr. Veazey discussed several recent accomplishments and awards received by West Kentucky Community and Technical College. She discussed the Community Scholarship program, the Community College Excellence program, and the Paducah School of Art and Design. Mr. Martin discussed the closing of the Paducah Gaseous Diffusion Plant. He reviewed the plant's history, and economic impact to the region. The US Department of Energy owns the plant and it is currently in the clean up phase of closure. He discussed coal and natural gas electricity generation as compared to nuclear electricity generation, and the importance of zero carbon emission generation.

In response to questions from Senator Harris, Dr. Veasey said that the college has over 400 programs that allow a student to get certification or an eventual degree. The allied health programs are the most popular degrees offered by the college.

Chairman Rand thanked Chairman Leeper for his years of service in the General Assembly.

**FY 2013 – 2014 year-end summary**

Ms. Jane C. Driskell, State Budget Director, Mr. John Hicks, Deputy State Budget Director of the Office for Policy and Management, and Greg Harkenrider, Deputy Executive Director for Financial Analysis discussed the FY 2013 – 2014 yearend financial report for the General Fund and Road Fund. They provided an outlook for FY 2015. Ms. Driskell stated that there was a $90.8 million revenue shortfall for FY 2014, with individual income tax receipts $63 million under the estimate and Corporate/LLET tax receipts $17.7 less than estimated. Property tax receipts were down $6.5 million, and coal severance and cigarette taxes were both $3.1 million below the estimate. Sales tax collections were $31.8 million more than the estimate.

Ms. Driskell discussed the economy during FY 2014 stating that the difficult winter slowed growth during the first half of 2014. Overall state personal income tax collections fell 7.1 percent in third quarter as taxpayers shifted income from tax year 2013 to tax year 2012 to minimize their expected federal tax liability. Ms. Driskell provided further details of General Fund receipts, comparing growth rates for the past three fiscal years, and comparing actual receipts to the official estimate.

Ms. Driskell discussed the General Fund budget reduction plan requirements, detailing how the notification process works and outlining the steps taken in implementing a reduction plan. Some savings were already included in the enacted budget and there was very little flexibility because of the timing of the shortfall. The actions taken to address the shortfall included $50 million in transfers of excess unappropriated restricted funds, $4.8 million in General Fund reductions, $11.9 million General Fund lapses, $3 million in authorized fund transfers in excess of those budgeted, and a $21.2 million transfer from the Budget Reserve Trust Fund. She provided further details regarding the transfers from unappropriated excess restricted funds.

Ms. Driskell discussed FY 2014 Road Fund receipts, stating that the receipts were 1.4 percent below the official estimate, which was a $22 million shortfall. The shortfall was addressed through the Road Fund budget reduction plan. Actions taken to address the shortfall included a dedicated fuels tax adjustment, Road Fund appropriation reductions, authorized fund transfers in excess of those budgeted, and capturing Road Fund lapses.

Ms. Driskell addressed the outlook for future General Fund receipts, which needs to grow by 3.9 percent to meet the official estimate for the fiscal year. She discussed the economic difficulties faces by states nationwide. The impact of cumulative cuts to the executive budget has been $1.6 billion over the past seven years. Many agencies have experienced cuts of 41 percent since FY 2008, with an impact of service delays, more employee attritions, and loss of federal funds. She addressed the outlook for future Road Fund receipts, forecasting a decline in FY 2015 due to the implementation of the new car trade-in credit, a decline in taxable gallons of fuels, and motor fuel and vehicle usage decline.

In response to a question from Senator Leeper, Ms. Driskell said that in general, west Kentucky coal in currently performing better than east Kentucky coal. Mr. Harkenrider said that receipts show a slight decrease, with demand and prices stabilizing for west Kentucky coal, which is preferred in scrubbed electricity generation.

Chairman Leeper thanked everyone for visiting Paducah. There being no further business, the meeting was adjourned at 2:20 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on General Government, Finance, and Public Protection Minutes of the 1st Meeting of the 2014 Interim

August 28, 2014

**Call to Order and Roll Call**

The first meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 28, 2014, at 2:00 PM, at the Northern Kentucky Convention Center, Covington, Kentucky. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representatives Mike Denham, Adam Koenig, Tom Riner, and Wilson Stone.

Guests: Sean Riley, Chief Deputy Attorney General, Office of the Attorney General; Rick Wurth, CEO, Children's Home of Northern Kentucky; and Tad Campbell, Agricultural and Natural Resources Agent for Mason County.

LRC Staff: Jennifer Rowe, Katie Comstock, and Spring Emerson.

Chief Deputy Attorney General Riley provided an overview of the 2013 Pharmaceutical Settlements, the Substance Abuse Treatment Advisory Committee (SATAC), and the Tobacco Master Settlement Agreement.

In response to questions from Representative Koenig, Mr. Riley said the geographic scope of impact is the component that requires applicants to demonstrate need. Although there may have been more substance abuse treatment options available statewide, Kentucky was lagging in meeting the standard of care treatment needs for adolescents around the state. The SATAC took this obligation very seriously, and they brought key providers together to deliver those services. The total number of adolescents being treated will be provided to the subcommittee at a later date.

In response to questions from Representative Stone, Mr. Riley said funding announced as of August 11 has not yet been sent out. The Kentucky Housing Corporation, the administrative agent for these grant programs, will administer the distribution of the grant funds over a two-year period. Each grantee will operate distinctly based on their unique needs. Each of them has reporting requirements, and SATAC is required to produce an annual report of the grant funds and their use, with sustainability being a key factor.

In response to questions from Representative Denham, Mr. Riley said SATAC emphasized treatment rather than prevention. Funding to continue the programs after the two-year grant period would be provided through third-party health organizations, Medicaid, Medicare, or fund-raising or other efforts in the community.

In response to questions from Chairman McDaniel, Mr. Wurth said national authorities indicate that medically assisted treatment is the flagship of care and the endorsed way of proceeding.

In response to questions from Chairman McDaniel, Mr. Riley said the drug settlements were unique to Kentucky, and in each case, Kentucky opted out of larger global settlements organized by the National Association of Attorneys General. SATAC tabled the remaining amount of approximately $1 million to explore other opportunities consistent with SATAC's mission. The core of the addiction problem in Kentucky is with opioids and heroin, although treatment is designed for a broader range of addictions.

In response to a question from Chairman McDaniel, Mr. Riley said there was no more pending Tobacco Master Settlement Agreement litigation.

There being no further business before the subcommittee, a motion for adjournment was made by Representative Denham and seconded by Representative Stone, and the meeting was adjourned at 3:10 PM.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Postsecondary Education
### Minutes of the 2nd Meeting of the 2014 Interim

September 25, 2014

**Call to Order and Roll Call**

The 2nd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 25, 2014, at 10:00 AM, at the Clemens Fine Art Center, on the West Kentucky Community and Technical College Campus, in Paducah, Kentucky. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Arnold Simpson, Co-Chair; Senator Johnny Ray Turner, and Representatives Rick Rand, and Gerald Watkins.

Guests: Dr. Barbara M. Veazey, President, West Kentucky Community and Technical College (WKCTC); Dr. Jay Morgan, Provost, Murray State University (MuSU); Dr. Tim Todd, Dean, College of Business, MuSU; Dr. Jim Gantt, Director of the Telecommunications System Management (TSM) Program, MuSU; Dr. Steve Cobb, Dean, College of Science, Engineering and Technology, MuSU; Dan Lavit, Assistant Dean, Continuing Education, MuSU.

LRC Staff: Perry Papka, Jennifer Rowe, Joe Lancaster, and Amie Elam.

**West Kentucky Community and Technical College**

Dr. Barbara M. Veazey, President, provided an update on the Paducah School of Art and an overview of the West Kentucky College Academy (dual credit program) and the Community Scholarship Program.

In response to a question by Representative Watkins, Dr. Veazey said that the number of students enrolled is increasing. High schools are working hard to get as many students as possible to enroll in college.

Representative Simpson congratulated Dr. Veazey and WKCTC on winning the Aspen award. In response to a question by Representative Simpson, Dr. Veazey said that 60 percent of students at WKCTC are enrolled in general education and 40 percent are in a technical track for an associate in applied science.

In response to a question from Representative Simpson, Dr. Veazey said WKCTC has an 80 percent retention rate from fall to spring and a 70 percent retention rate from fall to fall. There is a 49 percent completion and transfer rate.

In response to a question by Representative Flood, Dr. Veazey said that the WKCTC community raised $2 million from 2007-2010 and will continue to raise money for provide student scholarships.

**Murray State University**

Representatives from Murray State University (MuSU) gave an overview of MuSU's Paducah Regional Campus and provided information about the Program of Distinction in Telecommunication Systems Management.

In response to a question by Representative Rudy, Dr. Morgan said that MuSU is conducting hemp research trials on university property. The trials are going reasonably well, and the hemp is set to be harvested soon.

In response to a question by Representative Simpson, Dr. Morgan said that the number of students staying in Kentucky is improving. MuSU has 1,100 international students.

In response to a question by Representative Simpson, Dr. Morgan answered that purchasing and maintaining the software and paying the faculty to teach online classes makes those classes more expensive than traditional classes. There is a 30 percent tuition surcharge for online courses.

In response to a question by Representative Flood, Dr. Morgan said the cost to the university would increase as the number of online offerings increases.

There being no further business to come before the committee, the meeting was adjourned at 11:28 a.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Primary and Secondary Education
### Minutes of the 2nd Meeting of the 2014 Interim

September 25, 2014

**Call to Order and Roll Call**

The 2nd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 25, 2014, at 10:00 AM, at the Clemens Fine Art Center, on the West Kentucky Community and Technical College Campus, in Paducah, Kentucky. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Kelly Flood, Co-Chair; Senator Johnny Ray Turner; Representatives Jeffery Donohue, Rick Rand, and Steven Rudy.

Guests: Dr. Barbara M. Veazey, President, West Kentucky Community and Technical College (WKCTC); Dr. Jay Morgan, Provost, Murray State University (MuSU); Dr. Tim Todd, Dean, College of Business, MuSU; Dr. Jim Gantt, Director of the Telecommunications System Management (TSM) Program, MuSU; Dr. Steve Cobb, Dean, College of Science, Engineering and Technology, MuSU; Dan Lavit, Assistant Dean, Continuing Education, MuSU.

LRC Staff: Perry Papka, Jennifer Rowe, Joe Lancaster, and Amie Elam.

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In response to a question by Representative Flood, Dr. Morgan said the cost to the university would increase as the number of online offerings increases.

There being no further business to come before the committee, the meeting was adjourned at 11:28 a.m.

## INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

### Minutes of the 1st Meeting of the 2014 Interim

September 23, 2014

**Call to Order and Roll Call**

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, September 23, 2014, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jeff Greer, Co-Chair; Senators Jared Carpenter, Julian M. Carroll, Julie Denton, Chris Girdler, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, Albert Robinson, and Dan "Malano" Seum; Representatives Dwight D. Butler, Ron Crimm, Mike Denham, Jim Gooch Jr., Mike Harmon, Dennis Keene, Thomas Kerr, Adam Koenig, David Meade, Michael Meredith, Brad Montell, David Osborne, Ruth Ann Palumbo, Ryan Quarles, Steve Riggs, Bart Rowland, Jonathan Shell, Fitz Steele, Wilson Stone, Tommy Thompson, John Tilley, and Ken Upchurch.

Guests: Sharon Clark, Commissioner, Department of Insurance, Bob McFalls, Executive Director, Kentucky Pharmacists Association, Kelly Fitzgerald, Patient Services Incorporated, Lucy Hicks, Immune Deficiency Foundation, Pamela Fields, Angela Young, and Letitia Hughes, representing the Arthritis Foundation.

LRC Staff: Rhonda Franklin, Sean Donaldson, and Jamie Griffin.

The minutes of the November 26, 2013 meeting were approved.

**State of the Insurance Industry in Kentucky**

Sharon Clark, Commissioner of the Department of Insurance, stated that there are 174,537 active licensees and 1,615 companies at this time in Kentucky. There were 86 convictions from 1,686 insurance fraud referrals. Jefferson County has the highest rate of fraud in Kentucky. In the last year, $21,540,701,475 was collected in premiums, $138 million collected in state taxes, and $250 million collected in local taxes. The Consumer Protection Division has received 4,243 consumer complaints and recovered $3.5 million dollars. She stated that $1.2 million dollars has been recovered from Medicaid providers. In the Worker's Compensation marketplace, for the 9th consecutive year, there has been a decrease in claims; Kentucky ranks 9th lowest in the nation. There are two new health care insurance companies selling in the state; the insurance market is very healthy.

Representative Jeff Greer stated that he was impressed by the continued decrease in Worker's Compensation claims.

**Pharmacy Benefit Managers**

Bob McFalls, Executive Director, Kentucky Pharmacy Association, stated that Senate Bill 107 that was sponsored by Senator Julie Denton in the 2013 Regular Session has not had an impact on the pharmacy benefit manager transparency issues or the disclosure of the reimbursement calculation method. He said that they are not meeting the requirements of the bill and must be made to do so.

Senator Julie Denton asked if the Department of Insurance could address the status of its enforcement of Senate Bill 107. D. J. Wasson, Staff Assistant, Department of Insurance, stated that the department has a plan in place. It will be researched and dealt with on a case by case basis.

**Cap on Co-Pays or Coinsurance for Coverage for Specialty Prescription Drugs Subject to a Tiered Formulary**

Kelly Fitzgerald, Patient Services Incorporated, Angela Young and Letitia Hughes Arthritis Foundation, stated that certain medicines used to treat chronic diseases are breakthrough treatments that often prevent disability, save and improve lives, and allow patients to function and remain in the workforce. Unfortunately, some commercial health insurance policies are now moving vital medications into a new specialty tier requiring patients to pay a percentage of their drug cost from 25 percent to 50 percent rather than a fixed co-payment. These practices are placing medically necessary treatments out of reach of average Kentuckians. Patients need protections from both payer policies that create an undue burden for a subset of patients and from rising cost sharing in general. Kentucky needs legislation to addresses both of these critical issues. Capping the highest copayments for medications would distribute pharmacy costs more fairly across enrollees. Limiting the total out-of-pocket cost for drugs would distribute pharmacy costs more fairly between enrollees and insurers.

Representative Jeff Greer stated that he understands that help is needed and feels sure they can talk to members to obtain a sponsor for new legislation.

Senator Julian Carroll stated that it definitely needs to be looked into and that he would be willing to sponsor legislation.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

### Minutes of the 4th Meeting of the 2014 Interim

September 18, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, September 18, 2014, at 1:00 PM, in the Meeting House, Shaker Village of Pleasant Hill, Harrodsburg. 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, Carroll Gibson, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Dennis Parrett, and Mike Wilson; Representatives Julie Raque Adams, Tim Couch, Jim DeCesare, Mike Denham, Jeffery Donohue, Myron Dossett, Jim Gooch Jr., Mike Harmon, James Kay, Dennis Keene, Kim King, Brian Linder, Tom McKee, Terry Mills, David Osborne, Ruth Ann Palumbo, John Short, Arnold Simpson, John Will Stacy, Fitz Steele, Wilson Stone, and Russell Webber.

Guests: Maynard Crossland, President and Chief Executive Officer (CEO), Jennifer Broadwater, Vice President of Marketing, and Jill Malusky, Director of Visitor Engagement, Shaker Village of Pleasant Hill; Mary Quinn Ramer, Vice President, Marketing, Lexington Convention and Visitors Bureau.

LRC Staff: John Buckner and Dawn Johnson.

**Approval of Minutes**

A motion by Representative Simpson and second by Senator Harris to approve the minutes of the August 21, 2014, meeting carried by voice vote.

**Shaker Village of Pleasant Hill, Changes in Response to Business and Marketing Conditions**

Maynard Crossland, President and CEO of Shaker Village of Pleasant Hill, explained recent changes to redefine promotional efforts at the village. Mr. Crossland acknowledged the dedication of those who worked to restore Shaker Village and the not-for-profit organization that currently manages its 3,000 acres and 34 historic structures. In the 1960s, the site was restored and opened to the public with traditional cooking and costumed interpreters who performed Shaker-era craft making. With declining attendance due to a volatile marketplace and cultural shift, this model no longer served the needs of Shaker Village. To survive, the demands of a new marketplace must be met by creating an engaging experience for a new generation.

Jennifer Broadwater, Vice President of Marketing and Visitor Engagement, said the leadership team spent many hours considering changes to long-time institutional traditions. The team determined it was more important to put the needs of today's audiences ahead of organizational customs. In doing this, Shaker Village merged the best of the old with the unexpected. The Pleasant Hill Shaker story has not changed, but the manner in which it is told has. The leadership team chose a nontraditional marketing firm to take an inventive approach to rebranding Shaker Village and its collection of Shaker architecture, furniture, documents, and artifacts. Through targeted branding and marketing communications, the introduction of engaging events, and the development of a new visitor engagement plan, the new strategy was implemented. To reach more children and families, the team developed interesting programs and activities and presented them in fun and approachable ways, and broadened the opportunities for loyalists and empty-nesters seeking tranquility in a natural setting. New events were created, such as the Chamber Music Festival of the Bluegrass, an antiques show and crafts fair, the Harvest Fest, and smaller events targeting specific niches.

Ms. Broadwater explained the new visitor engagement plan developed to transition Shaker Village's daily programming from a traditional demonstration-based interpretation of Shaker history to an engaging participatory model through new seasonal programs and activities. Shaker Village has begun to retell the Shaker story through media outlets, social media, online, and new events. These efforts are paying off with increased occupancy rates, admissions, and dining sales.

Jill Malusky, Director of Visitor Engagement, said that no other site like Shaker Village exists that combines historic structures, exhibitions, demonstrations and collections, a nature preserve, farm and garden, along with dining, sleeping accommodations and retail sales. She explained the *$5 after 5:00 PM* program with extended hours that has piqued visitor interest, *Top to Bottom* tours giving visitors a behind the scenes look at Shaker Village, and *Coffee with the Collections* which gives participants a look at rarely seen manuscripts and historic items.

Ms. Malusky noted that the Village's Historic Centre, the Preserve and the Farm and Garden staff are collaborating to development new programs. The Village is collaborating with outside partners to share expertise, staff, and resources to maximize reduced budgets to provide high quality programs.

Responding to Senator Parrett's questions, Mr. Crossland said the Village leases approximately 800 acres to a local farmer. Other income includes an endowment, revenues from ticket sales, dining, the inn, and rental of the paddleboat.

Responding to Representative DeCesare's question, Mr. Crossland said the Village participates in the Kentucky Proud program through dining room purchases.

Representative McKee said a weekend at Shaker Village is a special experience. He complimented Shaker Village staff on their innovative ideas that keep Kentucky proud of the historical landmark.

Responding to Senator Kerr's suggestion regarding an outdoor Shaker Village play or musical, Mr. Crossland said one goal is to fill the 72 hotel rooms by becoming a destination for visitors to participate in a variety of activities at the village. The site hosted a chamber musical event on Memorial Day.

Senator Gibson recommended that state tourist destinations have a pre-visit ticket purchasing system for those passing through the area who may not plan to make an extended stay. Mr. Crossland said one of the biggest problems for the Village is that it is difficult for tourists to get to the destination. He suggested improved coordination between tourism and the Transportation Cabinet.

**Importance of Public/Private Partnerships and Cooperative Programming**

Mary Quinn Ramer, Vice President of Marketing with the Lexington Convention and Visitors Bureau, said with the assistance of the Kentucky Department of Travel and Tourism, the 15 regional counties work closely together. They meet monthly about tourism issues and collaborate on marketing initiatives to help meet their needs. Participants share information on local events and attractions in a regional marketing partnership effort. Money from the Tourism Marketing Incentive Fund helps fund items like bluegrassky.com, a one-stop-shop for touring needs in central Kentucky, and a two-page advertising spread in US Airways *Inflight Magazine*. By working together, they can become a multi-night destination. Ms. Ramer said Lexington and Shaker Village have worked together on several projects such as hosting journalists and familiarization trips for tour operators. Shaker Village is well represented in the new downtown Lexington visitors' center.

Ms. Ramer reviewed an advertising campaign featuring Lexington in northern markets, titled "Southern Starts Here." It is important to engage journalists to feature the area. She said the area including Lexington, Shaker Village, and the Bourbon Trail has had many positive stories portraying Kentucky as a world-class destination. However, these marketing initiatives are in jeopardy. Due to a spending authority issue preventing usage, $9 million was swept from a restricted fund of revenues received through the one percent transient room tax. Tourism is not only an investment for tourism issues but also an investment in education. Statistically, tourism provides over $1 billion in tax revenues, is worth $12.5 billion to the state's economy, and employs 175,000 Kentuckians. Kentucky's greatest assets, scenic wonders, welcoming people, unique regional culture, history, and heritage cannot be outsourced. People have to visit to experience what Kentucky has to offer, which will result in jobs and growth.

Senator Higdon noted that, through a joint effort, he and Representative Kim King were able to get a transportation study initiated on Highway 68.

Responding to Representative Simpson's question, Ms. Ramer said that, to track effectiveness of advertising, tourism data is studied through reader response cards in print and digital tracking online.

Responding to Representative Simpson's question, Ms. Ramer said the lost transient room tax funds would have been used for digital advertising and print initiatives. She would like to work with the General Assembly to remove the cap to access the funds.

Responding to Representative Mill's inquiry, Mr. Crossland said the 800 acres of leased land is planted with corn and soybeans and is used for cattle. The nature preserve has 1,200 acres and the Village occupies 1,000 acres, and the landing at the Kentucky River is part of the property as well. He has been working with Kentucky Fish and Wildlife to demonstrate how restoration of prairie grasses and the nature preserve can coexist with modern farming techniques.

Mr. Crossland said the goal of Shaker Village is to become a major tourism destination for the state. To achieve this, the Village has worked with various state and local agencies and constituents. The Village is the largest Shaker site in the United States. There is much restoration needed, therefore the newly established Development Office has launched a multi-million dollar campaign to raise the funds needed for restoration. He asked for the Commonwealth's support through funding mechanisms such as setting aside a portion of the Kentucky State Historic Preservation Tax Credit, as was recently done to support some for-profit ventures or requesting a line item appropriation for targeted projects.

Mr. Crossland said there is a significant need for appropriate transportation tourism signage because the site is very difficult to find. Promoting tourism by county affiliation rather than destination is an inefficient system that limits options for rural counties.

Mr. Crossland suggested legislative clean-up language that ties alcohol beverage licenses to the physical boundaries of properties. This prevents the Village from serving spirits on its popular 112-passenger paddlewheel boat.

There being no further business, the meeting adjourned at 1:45 PM.

## INTERIM JOINT COMMITTEE ON EDUCATION

### Minutes of the 4th Meeting of the 2014 Interim

September 8, 2014

**Call to Order and Roll Call**

The fourth meeting of the Interim Joint Committee on Education was held on Monday, September 8, 2014, at 12:00 PM, in the Sedley-Stewart Auditorium at Lee County High School in Beattyville, Kentucky. Senator Mike Wilson, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Jared Carpenter, David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Reginald Thomas, and Johnny Ray Turner; Representatives John Carney, Hubert Collins, C.B. Embry Jr., Kelly Flood, Richard Heath, Joni L. Jenkins, James Kay, Mary Lou Marzian, Donna Mayfield, Reginald Meeks, Rick G. Nelson, Ruth Ann Palumbo, Marie Rader, Jody Richards, Tom Riner, Rita Smart, Wilson Stone, Addia Wuchner, and Jill York.

Legislative Guests: President Robert Stivers and Representative Arnold Simpson.

Guests: Patrick Jennings, Microsoft.

LRC Staff: Jo Carole Ellis, Ben Boggs, Joshua Collins, and Lisa W. Moore.

**Approval of the August 11, 2014, Minutes**

Representative Graham moved to approve the minutes, and Senator Kerr seconded the motion. The motion carried by voice vote.

**Overview of Lee County School District and the Technology Education and Literacy in Schools (TEALS) Program**

Dr. James Evans, Jr., Superintendent, Lee County School District, welcomed the committee and acknowledged members of the audience who helped support the district through local and state education partnerships. Lee County has a declining population in 2013 of 7,706, which has decreased from 7,887 in 2010. Isolated by lack of major roads, Lee County has minimal industrial or business employment opportunities. The median household income for Lee County in 2011 is $24,770, with 44.5 percent of children living in poverty. The unemployment rate for 2011 is 12.4 percent. Only 50.9 percent of the population over 25 is a high school graduate. About 6.3 percent has a bachelor's degree or higher.

Dr. Evans said the school district consists of two elementary schools, one middle school, and one high school. The Lee County Technology Center, located adjacent to Lee County High School, serves Lee, Owsley, and Wolfe County Schools and is an integral part of the school system. Committee members had received a tour of the area technology center prior to the meeting.

Dr. Evans said the Lee County School District is the largest employer in the county. He said 100 percent of Lee County students receive free meals. Lee County Schools has a declining enrollment due to many people leaving the county to secure employment. Enrollment has decreased from 1,133 in 2011 to 1,054 in 2013-14, resulting in a decrease in Support Education Excellence in Kentucky (SEEK) funding and a reduction in staff. Lee County School's employs 76 full-time certified staff and 78 full-time classified staff. One percent of the students are minorities.

Dr. Evans discussed the partnership between Owsley, Lee, and Wolfe counties. Responding to a question from Representative Carney regarding dual credit opportunities, Dr. Evans said Title II monies have paid to certify five teachers.

Responding to Representative Heath, Dr. Evans said he supports allowing Kentucky Educational Excellence Scholarship (KEES) money to help fund dual credit courses.

Dr. Evans said the Kentucky Valley Educational Cooperative (KVEC), a consortium of 18 rural districts, is one of five applicants that will receive a total of approximately $120 million in the second round of the Race to the Top-District (RTT-D) competition. This grant will support locally developed plans to personalize and improve student learning, directly increase student achievement and educator effectiveness, close achievement gaps, and prepare every student for success in college and careers. The grant will also help teachers tailor their approach to meet their students' needs, allow them to collaborate in new ways, and provide students with resources that enable them to access a world-class education no matter where they are located.

Responding to Representative Graham about the district's participation on the dual credit task force, Dr. Evans said Lee County would be presenting its dual credit program at the next task force meeting. The district is joining other best practice sites from across Kentucky to provide examples of the high-performing dual credit programs in the state.

Mr. William Owen, Chair, Lee County Board of Education, said Lee County Schools have always been at the forefront in innovative programs and practices. The district is being recognized as a proficient high progressing school district. Lee County Schools have been involved with Reading Recovery, Reach to Achieve, and Singapore Math. Lee County is piloting the Gates Integration Grant work and the teacher, principal, and superintendent Professional Growth Evaluation System.

Mr. Owen said Lee County has collaborated with other districts for distance learning opportunities, with area colleges for dual credit courses and new teacher and aspiring leaders mentoring, and with Microsoft through the Technology Education and Literacy in Schools (TEALS) project. He said credit recovery is provided as needed for Lee County High School (LCHS) students to help student success. Schools are involved in such programs as WIN Learn and various reading and math interventions. The GEAR UP program with Berea College has been a valuable asset to the district's staff and students. Academic coaches are provided to schools whenever financially possible. Lee County is working to vertically and horizontally align the K-12 curriculum in the common core standards, and has adopted the new dropout age of 18 believing that it is in the best interests of the students and the community.

Mr. Owen thanked President Stivers for his diligence in creating the partnership with AT&T and for expanding internet access for all rural counties. He said Lee County students were able to travel to the state of Washington to tour Microsoft, Google, Facebook, and their offices in Seattle, and meet the engineers that work there. He would like to see the TEALS program in other districts but is thankful it is in Lee County.

Mr. Owen said Senator Mitch McConnell visited Lee County High School and received a demonstration of the TEALS program. Senator McConnell supports partnering with AT&T to address the internet and decent bandwidth needed to support the county. Lee County is the only remaining Kentucky county not structurally prepared for internet connection. Funding and private sector and university support are other areas needed to provide the resources to support and sustain an expansion of TEALS.

Mark Murray, Principal, Lee County High School, said TEALS is a grassroots program that recruits, trains, mentors, and electronically places current high tech professionals around the country who are passionate about computer science education into high school classes as volunteer teachers in a team teaching model where the school district is unable to provide high quality computer science (CS) programs on its own.

Mr. Murray said Lee County High School has partnered with Microsoft to teach computer science skills to students. The TEALS program uses instructors from Microsoft to teach students introductory and Advanced Placement (AP) Science classes remotely, and to meet with the students electronically from time to time in person. The goal, however, is to eventually allow local teachers to take over those classes. He said Ms. Joy Neace plans to take the class entirely in two years. Other high schools in Madison, Jessamine, and Adair counties are piloting the program this academic year along with three other Kentucky area technology centers.

Mr. Murray said the TEALS program has created a world of opportunities for LCHS's students. He cited the example of one particular student, Jeremy Moore, who is featured in Microsoft's latest *YouthSpark* Stars. Jeremy had never been an Honor Roll student and lacked a general interest in school. The TEALS program changed his attitude toward learning and provided a future for him in the computer industry. Dr. Evans said the program is giving students access to a curriculum the school could not otherwise offer that will prepare them for the workforce. The school district does not have the teaching staff to offer this kind of course or training to its students. The goal this year is for students to earn between 700 and 800 college credit hours, and they are on target to reach 730 credit hours. Students not only experience improved test scores but also grow socially.

Mr. Murray said that, while the school has had some success as a distance learning pilot, there are still challenges. Real success will be the sustainability of this program with CS as a curriculum offering to include Advanced Placement (AP) Computer Science as well as Introduction to Computer Science.

The TEALS program is an excellent opportunity for students to discover if CS is a field they would be interested in studying in college. Many students do not understand what CS offers without hands-on programming experience.

Mr. Murray said the TEALS program can provide opportunities to local students that can lead to internships with Microsoft and careers in the CS field. Projects like TEALS can help build a sustainable local economy so people do not have to leave eastern Kentucky to find jobs.

Senator Wilson said he is encouraged that the LCHS students are asking to be challenged at a higher level. The TEALS program has raised the bar for learning in the student population.

Responding to a question from Representative Carney regarding the cost savings of the dual credit hours earned by students, Mr. Murray said it is a significant savings. Representative Carney agreed and wants the community to realize the value and cost savings of the program.

Marian Ross, a parent, said the TEALS program changed her son's life and that he recently placed fifth in the state for a computer project he and a fellow classmate submitted. They won first place in a regional competition. She said her son having access to teachers in Seattle and Washington was instrumental in his learning. She described how these classes required him to think about what he was developing and how things work, but said the internet service remains a big challenge. There is no community location open late enough to provide internet service to him because of his after-school activities during the day and the home internet quota is filled within three days.

The committee members received demonstrations of the TEALS program from four LCHS students and spoke with them.

Responding to a question from Representative Carney regarding if the students will reside in Beattyville after graduation, most said they planned to attend college but would like to come back if job opportunities were available. The students plan to major in CS or a related field in college and hope future students have the opportunity to participate in the TEALS program. One student said he would like to open his own business in Lee County.

Responding to Representative Richards' question regarding student access to a computer at home, two said they owned laptops and could work from home. One parent upgraded a student's laptop after his participation in the TEALS program.

Responding to a question from Representative Stone, Dr. John Jannone, Microsoft, said students are receiving the same curriculum as freshmen enrolled at the University of California, Berkeley. Most students are enrolled in AP dual credit classes that substitute for CS classes in college.

Responding to Senator Wilson, the students said they had designed a website for the Future Business Leaders of America. Representative Carney suggested students design a website for the Lee County TEALS program to share with other school districts.

Responding to Senator Givens regarding the skills students need to be successful in computer programming, the students said trial and error, research, and math skills are essential to computer programming. CS uses many mathematical concepts.

Senator Kerr said the best way to learn is by teaching. Responding to her question, the students said they mentor younger students in the CS program. Dr. Jonnone said he was a data scientist and taught the children remotely from New York.

Representative Carney said the internet connection needs to be improved. He would like to see the issue revisited and solved.

Responding to Representative Heath regarding other school districts participating in TEALS, Dr. Evans said LCHS partnered with Owsley County. TEALS could be replicated if time and money barriers were removed. Better outreach to rural areas is needed.

Responding to Representative Graham's question about fees associated with participating in TEALS for free and reduced lunch students, Dr. Evans said the board of education will pay for the AP course and test for any student who wants to participate.

Responding to a question from Senator Wilson regarding computer programming replacing four years of high school math credits, Dr. Evans said the CS curriculum could be a replacement for the required math credits. There is discussion to allow it to replace the foreign language requirement.

Kevin Wang, Microsoft, said the United States is facing a shortage of CS graduates. Every year, 80,000 positions requiring a CS degree go unfilled by domestic talent, and the figure is estimated to rise to 1,000,000 unfilled positions by 2020. This will cost the United States economy $500 billion over the next decade. The positions are vital to economic competitiveness and national defense.

Mr. Wang said jobs in the CS field begin at $60,000, and only one percent of college graduates are obtaining CS degrees. By 2018, there will be 1.5 million CS-related jobs available, of which college graduates will be prepared to fill 29 percent. The unemployment rate for those in the CS field is less than one percent. About 60 percent of the Science, Technology, Engineering, and Math (STEM) jobs are computer related. There are fewer CS college majors than ten years ago, and thus the graduates cannot meet the demand for these jobs.

Mr. Wang said research shows that students' positive exposure to CS in high school correlates to majoring in CS in college. Unfortunately, only one out of ten schools in the United States offer such programming classes. American high schools fail to offer CS because there are not enough qualified CS teachers to meet the demand. He noted in 2012, only 24,782 out of more than 14 million United States students took the AP CS test, which represents less than 0.7 percent of all AP tests taken. TEALS addresses this problem by bringing CS courses into high schools across the nation as a service to schools, students, and teachers. Microsoft would like to implement TEALS statewide, but schools and administrators must be supportive and prepared.

In response to a request from Representative Carney, Mr. Wang said he would provide a copy of his presentation that included the statistics about CS jobs and the economy.

Responding to a question about the cost of the program, Dr. Evans said volunteers are paid a modest stipend. There is no cost associated with paying Microsoft for the TEALS program. The school provides the teachers and students and Microsoft provides the training. Microsoft paid for the trip the students took to Seattle to tour the Facebook, Google, and Microsoft offices.

Representative Smart said she appreciates allowing the students to receive math credits for computer programming courses.

Senator Wilson said it is vital to pass a telecommunications bill such as the one introduced in the 2014 Regular Session of the General Assembly because it would allow broadband expansion.

With no further business before the committee, the meeting adjourned at 2:00 PM.

## SPECIAL SUBCOMMITTEE ON ENERGY

### Minutes of the 4th Meeting Of the 2014 Interim

September 19, 2014

**Call to Order and Roll Call**

The 4th meeting of the Special Subcommittee on Energy was held on Friday, September 19, 2014, at 10:00 AM, at the Clay Community Center, Mt. Sterling, Kentucky. Representative Richard Henderson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Richard Henderson, Co-Chair; Senators Ernie Harris, Jimmy Higdon, Ray S. Jones II, Brandon Smith, and Robin L. Webb; Representatives Hubert Collins, Tim Couch, Sannie Overly, Tanya Pullin, Tom Riner, John Short, John Will Stacy, and Fitz Steel.

Legislative Guests: Senator R.J. Palmer, Minority Floor Leader.

Guests: Gail Wright, Executive Director, Gateway Area Development; Keith Gannon, Chairman, University of Kentucky Board of Trustees, former Representative Adrian Arnold; David Points, Executive Director, Montgomery County Community Development; Dr. Gwen Sloas, Ed.D., Director, Morehead State University at Mt. Sterling; Dr. Cary Green, Department Chair, Agricultural Sciences, Morehead State University; Dr. Hans Chapman, Assistant Professor, Applied Engineering and Technology, Morehead State University; Dr. Carol Christian, Director of the Craft Academy for Excellence in Science and Mathematics, Morehead State University; and Dr. Benjamin K. Malphrus, Department Chair, Earth and Space Science, Morehead State University.

LRC Staff: D. Todd Littlefield, Janine Coy-Geeslin, and Susan Spoonamore, Committee Assistant.

**Biomass Research at Morehead State University**

Dr. Cary J. Green, Professor and Chair, Agricultural Sciences, Morehead State University (MSU), discussed research by a graduate student and a professor in the MSU Department of Agricultural Sciences. Dr. Green said that biomass production has the potential to reach 12-15 million tons with little change in land use. To meet the goal of 25 percent renewables by 2025, there must be changes in land usage and distribution of production. A major issue is whether eastern Kentucky farmers are willing to grow biomass for energy production. Ideas need to be developed to encourage farmers to grow energy crops. A paper survey sent to 1,000 farmers in 48 counties east of I-75 generated 198 responses. Thirty-nine percent indicated a willingness to produce energy crops. The research showed that the farmer's most discouraging aspect of growing biomass was market potential. It was suggested that grants should be awarded for research and development to advance the technologies, and that government incentive programs should be provided to supplement establishment costs.

Dr. Green stated that the survey also indicated that tobacco producers and hay producers were the most likely to be willing to try growing energy crops. The least likely were livestock/equine producers because their land is used for pasture. Farmers most likely to be interested in producing biomass were younger and had higher education levels and larger disposable income. The responses revealed curiosity about how to grow biomass. Dr. Green stated that there is a lack of background knowledge among farmers and the general public with regard to growing biomass and biofuels.

In response to Representative Hubert Collins, Mr. Green said that no research had been conducted to see how many acres in Eastern Kentucky are not productive. He said that there is biomass potential in some reclaimed mining lands.

In response to Representative John Short, Dr. Green said that he did not know the profit margin per acre on raising energy crops.

In response to Senator Brandon Smith, Dr. Green said that the survey research only dealt with the production of biomass crops and not the utilization of animal waste for energy production.

In response to Chairman Richard Henderson, Dr. Green said that education relating to biomass is important, but the producer must be able to make a profit.

In response to Representative John Will Stacy, Dr. Green said he was not involved in the survey process and could not say which crops were mentioned. The man who headed up the research left the university for another Job. Dr. Green agreed that it would be a good idea to talk to the small farmers in eastern Kentucky about which biomass crops could be grown and the amount of required investment to produce the crops.

**Energy Systems and Sustainability at Morehead State University**

Dr. Hans Chapman, Department of Applied Engineering and Technology, testified about ongoing energy sustainability projects. MSU recently undertook a project to determine the carbon footprint of the school. Data was collected from various units in the university regarding transportation, refrigerants, agriculture, purchased electricity, faculty/staff commuting, air travel, solid waste, waste paper, and wastewater. The largest carbon emissions are from purchased electricity, followed by solid waste and refrigerants. MSU's carbon emissions compare favorably with other colleges around Kentucky. A new college course was developed to help students better meet multifaceted demands of the energy field. Funding was received from Siemens and Morehead State University for renewable energy laboratory equipment. Future priorities included extending the teaching of energy systems to cover undergraduate and graduate level courses, establishing a Center for Research and Teaching of Energy Systems, and seeking funding to support the proposed center.

In response to Senator Robin Webb, Dr. Chapman said that clean coal goes hand in hand with renewable energy.

In response to Representative Tanya Pullin, Dr. Chapman said that the university heritage group should be consulted before projects are undertaken.

In response to Senator Brandon Smith, Dr. Chapman agreed that more research is needed in chemical looping and bio-conversion

**Future of Science and Mathematics Education**

Dr. Carol Christian, Director of the Craft Academy for Excellence in Science and Mathematics, Morehead State University, explained that the Academy is a two year, dual-credit residential high school for academically exceptional juniors and seniors from across Kentucky. The beginning target group is 60 students who are entering their junior year and who have expressed career interests in science, technology, engineering and mathematics (STEM+X). Applicants should be interested in inventing and imagining, and should seek civic and regional engagement. Selected students complete a minimum of 60 college credit hours and receive a high school diploma. Tuition, room, and meal plan are provided at no cost. Students may take up to 18 credit hours per semester. Upon approval from the Assistant Director of Academic Services, students may take more hours for a fee. The Academy provides the opportunity to learn with other academically exceptional students. Students will live on-campus in a newly renovated residence hall. Counselors and advisors will be available to support students academically, socially, and emotionally. Students are MSU college students and will be allowed to participate in most activities with the exception of intercollegiate sports and Greek life.

An applicant to the Craft Academy must be a Kentucky high school sophomore; must have completed geometry, algebra I and algebra II prior to enrollment; must score a minimum 22 for math on the ACT or minimum 520 on the SAT; and must submit a completed online application. If he or she advances in the selection process, then the student and parents are invited to participate in an on-campus interview.

In response to Senator Robin Webb, Dr. Christian said that programs are being put into place to address the needs of students who may have difficulty adapting to a college environment.

**Space Science**

Dr. Benjamin K. Malphrus, Department Chair, Earth and Space Science, Morehead State University, discussed nanosatellite technologies at MSU. Dr. Malphrus said that space has become an important industry in Kentucky. The state's number one export in 2013 was from aerospace-related companies, which in total have become a $5.6 billion industry. The region, which includes southwest Ohio and northern Kentucky, recently became a federally designated manufacturing zone and has access to $1.3 billion in stimulus funds. MSU focuses on technology, development, and operation of nanosatellites. These satellites, about the size of a loaf of bread, can be used for data transfer, financial transactions, homeland defense, tactical security situations, and GPS navigation. Eastern Kentucky is poised to be a major player in nanosatellite development, mission operations, spacecraft qualification, and workforce development. MSU is starting the first space science engineering program in eastern Kentucky and offers a Masters of Space Science in Space Systems Engineering. Faculty and staff are world-renowned, and all faculty have worked in the aerospace industry.

MSU has approximately $2 million in contracts each year with NASA, the Department of Defense, FedEx, and other U.S. firms, as well as companies in Italy and Russia. The Earth and Space Science facility is a $15 million research and teaching structure. MSU has a spacecraft assembly building where a spacecraft can be built in its entirety. Five satellites, built completely or partially at MSU, are now in orbit. Depending on the contract, satellites are launched by NASA, Russia, or the European Union. MSU recently received a NASA grant to send a satellite to the International Space Station in 2016.

Dr. Malphrus said that the goals of the program include expanding space missions and related research. The program seeks to further the aerospace industry in Kentucky and in the southwest regional aerospace corridor.

In response to Senator Ernie Harris, Dr. Malphrus said that several of the satellites are in geosynchronous orbit, but are in a lower orbit that limits their usable life. There are a number of considerations pertaining to security clearance, particularly for foreign students. Most of the programs do not require a higher level security clearance.

There being no further business, the meeting was adjourned at 12:00 p.m.

## INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

**Minutes of the Fourth Meeting of the 2014 Interim**

September 17, 2014

**Call to Order and Roll Call**

The fourth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, September 17, 2014, at 10:00 a.m., at the Foundation for a Healthy Kentucky, 1640 Lyndon Farm Court, Suite 100, Louisville, Kentucky. Senator Julie Denton, Co-Chair, called the meeting to order at 10:06 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Tom Buford, Perry B. Clark, David P. Givens, Denise Harper Angel, Jimmy Higdon, and Reginald Thomas; Representatives Julie Raque Adams, Robert Benvenuti III, Bob M. DeWeese, Kelly Flood, Tim Moore, Darryl T. Owens, David Watkins, Russell Webber, and Susan Westrom.

Guests: Susan Zepeda, PhD, CEO, and Doug Hogan, Foundation for a Healthy Kentucky; Rick Clewett; Maria Koetter, Director of Sustainability, Louisville Metro Government; Susan Bush, Head of Environmental Planning, Lexington; Jamie Ennis Bloyd, mother of child with Burkitt's Lymphoma; Dr. John Perentesis, MD, Cincinnati Children's Hospital Medical Center; Dr. John A. D'Orazio, MD, PhD, University of Kentucky; Dr. Ken Lucas, MD, Norton/Kosair/University of Louisville; Kraig E. Humbaugh, MD, MPH, Senior Deputy Commissioner, Department for Public Health, and Colleen Hagan, Legislative Director, Cabinet for Health and Family Services; Jackie Richardson, Executive Director, Commission for Children with Special Health Care Needs; Michelle Sanborn, Children's Alliance; Beverly and Larry Ennis; Cindy Murray, Jeff Schnobrich, Sheila Hardy, and Jay Hartz, Legislative Research Commission; Bryan Sunderland and Ashli Watts, Kentucky Chamber of Commerce; Steve Houghland and Shane Hall, Passport Health Plan; Ellen Kershaw and Heathe Wehreim, American Lung Association; Donna Mullins, Office of Health Policy, Cabinet for Health and Family Services; Marie Cull, Cull & Hayden; Mary Corbett and Talley Russell, Norton Healthcare; Tonya Chang, American Heart Association; Debby Phillips and Shane Stuber, Leukemia & Lymphoma Society; Eric Clark, Kentucky Association for Health Care Facilities; Max Wise and Carter Wise; Betsy Jones, Smoke-free Kentucky; Jill Lee and John McGuire, Kentucky Inspector General's Office; Justine O'Flynn; Kosair Children's Hospital; Bart Baldwin; Steve Bing, Kentucky Local Health Department Association; Jackie Richardson, Commission for Children with Special Health Care Needs; Allyson Taylor; Sheila Schuster, Kentucky Mental Health Coalition; Sarah S. Nicholson, Kentucky Hospital Association; David Bolt; Cara Stewart, Kentucky Equal Justice Center; Pam Jenkins, Baptist Health/Kentucky Blood Center; and Bob Babbage.

LRC Staff: DeeAnn Wenk, Ben Payne, Jonathan Scott, Sarah Kidder, Gina Rigsby, and Cindy Smith.

**Approval of the Minutes**

A motion to adopt the minutes of the July 16, 2014 meeting was made by Senator Harper Angel, seconded by Representative Burch, and adopted by voice vote.

**Legislative Hearing on Executive Order 2014-618 relating to Advisory Council on Autism**

A motion to accept Executive Order 2014-560 was made by Senator Clark, seconded by Representative Burch, and approved by voice vote.

**Consideration of Referred Administrative Regulations**

The following administrative regulation were available for consideration and placed on the agenda, having been referred to the Committee on September 3, 2014, pursuant to KRS 13A.290(6): **900 KAR 6:030 –** provides for the adjustment of expenditure minimums for capital expenditures and major medical equipment; **900 KAR 6:125 –** establishes the requirements for submission of annual survey data to the Cabinet for publication of the orderly administration of the Certificate of Need (CON) Program; **902 KAR 55:045 –** exempts prescription products from the licensing, distribution, recordkeeping, and reporting provisions of KRS Chapter 218A if the products have received approval as an exempt prescription product pursuant to 21 C.F.R. 1308.32; **902 KAR 55:090 –** exempts certain anabolic steroid products from the licensing, distribution, recordkeeping, and reporting provisions of KRS Chapter 218A if the products have received approval as an exempt anabolic steroid product pursuant to 21 C.F.R. 1308.34; and **902 KAR 95:040 –** establishes general requirements for the certification of individuals who perform radon measurement, radon mitigation, or laboratory analysis. A motion to adopt the administrative regulations as amended was made by Senator Clark, seconded by Representative Burch, and adopted by voice vote.

**Pediatric Cancer Awareness**

Jamie Ennis Bloyd, mother of child with Burkitt's Lymphoma, stated that on March 3, 2014, her son, Paxton, was diagnosed with stage 4 Burkitt's lymphoma, but with treatment, is now a cancer survivor. Children should not have to think about death. There is a need for more awareness of childhood cancer. The Kentucky budget reflects priorities by spending $10 million for inmates' dental care, but none for pediatric cancer. Funds need to be allotted for pediatric cancer in the budget. Everyone needs to work in collaboration to find a cure for pediatric cancer.

Dr. John Perentesis, MD FAAP, Professor & Kleisinger Chair for New Cancer Treatments, Chief of Oncology, Cincinnati Children's Hospital Medical Center, stated that cancer is the leading cause of disease-related death in children. The impact of curing childhood cancer has dramatic effects. The average age of a child diagnosed with cancer is six years old, and the average number of years lost to cancer is 71. The average age for an adult diagnosed with cancer is 67, and the average number of years of life lost to cancer is 15. Progress in childhood cancer has been the result of federal funding and a collaborative national network between the National Cancer Institute Consortium and the Children's Oncology Group. Federal funding for cancer research and new treatments is 4 percent for pediatric cancer, and 96 percent for adult cancer. Progress in curing childhood cancer has stalled and funding has been cut. Even when therapy works well, it is not easy on the patient. There needs to be a better approach to research. Regional children's hospitals strive to advance a new model for collaboration and research advances.

The Cincinnati Children's Hospital is one of the largest pediatric health systems with approximately 600 registered beds and more than 1.1 million patients in 2013. The hospital is a high technological research and development non-profit focused on improving child health. There are 3,740 research employees employed at the hospital and over 2,200 Kentuckians. The Cincinnati Children's Hospital and the Cancer/Blood Institute (CBDI) are two institutions working as one. CBDI has a $500 million budget, 900 employees, one of the nation's top three pediatric cancer and marrow transplant centers, largest center for new anticancer drugs in children, and an international referral center for complex pediatric cancer. The hospital's dual mission in cancer is to deliver outstanding cancer care to the community and develop transformative global leading research and new therapies for children and young adults with cancer. Genomic-targeted molecular pediatric cancer therapies are personalized to improve chances of a cure. Next generation targeted radiation therapies and new engineered immune cells for children to target leukemia, cancers, and infection are being developed. Large pharmaceutical companies are not developing drugs for children, but the hospital's cancer program is using molecular modeling to design new targeted drugs for childhood cancers. Cincinnati Children's Hospital, Kosair Children's Hospital and Norton Healthcare have extraordinary and unique technologies, expertise, and opportunities for continued national leadership in childhood cancer. New opportunities include integrated research in the genomics mechanisms causing pediatric cancers, development of new targeted therapies, and an expanded collaborative network bringing research advances to the bedside of children in all three hospitals.

In response to a question by Representative Benvenuti, Dr. Perentesis stated that the challenge is getting federal government support and funding for pediatric cancers. Expanding regional collaboration would allow the best use of resources for care.

In response to a question by Representative Webber, Dr. Parentesis stated that research is being conducted to understand why pediatric cancer is increasing.

In response to a question by Senator Buford, Dr. Parentesis stated that there is a need to educate the public about childhood cancer and available treatments.

In response to a question by Senator Denton, Dr. Perentesis stated that because pharmaceutical companies are under pressure to make money, developing drugs for the treatment of pediatric cancer is not a high priority.

In response to a question by Representative Burch, Dr. Perentesis stated that if the federal government withdrew cancer funding it would be devastating. Much current research in the United States would collapse, and there is a need for more research to be conducted in the United States.

Dr. John A. D'Orazio, MD, PhD, University of Kentucky, stated that cancer is the leading cause of death by disease in childhood. Cancer is the most curable chronic disease in children. Less than 10 percent of cancer patients could be saved 50 years ago, now approximately 80 percent of all pediatric cancer patients are long-term survivors. One of every 1,000 individuals in the United States is a pediatric cancer survivor. In the United States, there are approximately 15,700 new patients under the age of 20 diagnosed every year. Every day 42 children are newly diagnosed with cancer and 40,000 children are treated for cancer each year. The average age of a cancer patient is six years old. Types and distribution of cancers are different than adult cancers. Treatment for pediatric cancer is more intensive, and often requires frequent inpatient stays. Fortunately, children tolerate this intensive treatment better than adults. In general, pediatric cancer is more curable. Treatment for childhood cancer involves a surgically-placed semi-permanent IV, chemotherapy, duration of therapy ranges from several weeks to several years, multiple hospitalizations, blood tests, blood transfusions, antibiotics, and certain high-risk patients require bone marrow transplantation.

Leukemia patients require up to 25 spinal taps. Pediatric cancer treatment requires a collaborative effort consisting of doctors, nurses, parents, specialists, and many more. It is estimated that less than one in ten patients have a clearly defined predisposing risk factor. The incidence rate for childhood cancer is slowly increasing. More research needs to be done regarding the case and possible prevention of childhood cancer. Over half of pediatric cancer patients participate in clinical trials compared with less than 5 percent of adults. The University of Kentucky participates nationally in the Children's Oncology Group and regionally in the Advanced Clinical Trials Network. The university is initiating trials for teenagers and young adults with cancer in collaboration with University of Kentucky's Markey Cancer Center. The Markey Cancer Center has achieved the NCI Comprehensive Cancer Center status.

Additional areas of research interest include the management of obesity, focus on the genetics of cancers that seem over-represented in our population, and UV safety and melanoma prevention. The mission of the university's Pediatric Hematology and Oncology is to provide high quality medical care for the children of central and eastern Kentucky, and integrate with other centers for ultra-specialized treatments such as bone marrow transplants. Private organizations such as DanceBlue's participation in funding raisers help with basic and clinical social workers, child life specialists, and school intervention specialists. Great advances have been made in pediatric oncology that will have a substantial long-term impact, but more research needs to be conducted regarding the cause and possible prevention of childhood cancer.

Dr. Ken Lucas, MD, Norton/Kosair/University of Louisville, stated that the mission of the University of Louisville's Division of Pediatric Hematology/Oncology is to provide the highest quality of care for patients and families that are being treated for disorders within the realm of pediatric hematology/oncology close to home. The mission of Kosair Children's Hospital is to provide quality health care to all those served, in a manner that responds to the needs of the communities and honors the hospital's faith heritage. Collaboration between the University of Louisville's Division of Pediatric Hematology/Oncology and Kosair Children's Hospital provide a comprehensive approach in the care and treatment of the pediatric hematology/oncology patient and their families. Infrastructure of the delivery system consists of clinical division with a strong academic and research focus, and service line model. The Pediatric Stem Cell Transplant Program is a comprehensive program to treat children with blood disease or cancer in order to provide state of the art care in an environment designed for the pediatric patient. The program is accredited by the Foundation for the Accreditation of Cell Therapy (FACT). The few expansions of the program have doubled the number of clinical faculty, doubled the number of stem cell transplants, and expanded the criteria for potential stem cell transplant candidates. The goal is to insure the availability and access to the state of the art care in the treatment of pediatric cancers, which must be one of the essential health care services available to the children of the Commonwealth of Kentucky. The University of Louisville's Division of Hematology/Oncology and Kosair Children's Hospital will continue to strive to provide the highest quality of care for the patients and families.

In response to questions by Representative Westrom, Dr. D'Orazio stated that it is an achievement to earn the NCI Comprehensive Cancer Center status based on research. The recognition provides some federal funding and increases the competitive ability to hire staff. Dr. Lucas stated that a cancer patient should never smoke after cancer treatments.

In response to a question by Senator Givens, Dr. Lucas stated that the Children's Oncology Group is a collaboration of cancer facilities. A child stays on the same protocol in all the hospitals. Dr. D'Orazio stated that cancer specialists are scattered between hospitals. There is a challenge to offer treatment as close to home as possible unless a specialist in another hospital can provide the needed treatment to prevent a hardship on the family. Dr. Perentesis stated that pediatric oncology as an area of medicine is not as competitive as adult oncology. There are 1,000 pediatric oncologists nationwide.

In response to a question by Representative Burch, Dr. Perentesis stated that he would recommend that a child get the HPV vaccine to help prevent cancer.

In response to a question by Representative Flood, Ms. Bloyd stated that $10 million would be a good place to begin to fund pediatric cancer in Kentucky.

**Update on the Incidences of HIV/AIDS Cases in Kentucky**

Kraig E. Humbaugh, MD, MPH, Senior Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services, stated that deaths among HIV disease cases have decreased since 1983. In Kentucky, approximately 6,000 individuals are living with HIV, and they are living longer because of improved medical therapies. Name based reporting was introduced in 2004. Approximately half of the HIV cases are in the Louisville Metro area. HIV disproportionately affects minorities and young adults. Kentucky statistics show that 38 percent of the new HIV cases were African American, 5 percent were Hispanic, and 53 percent were Caucasian. Kentuckians in their 20s, 30s, and 40s had higher percentages of diagnoses compared to their respective populations. In 2012, data show that less than 1 percent of Kentuckians younger than 13 were diagnosed with HIV. Fewer babies are born with HIV because the medications that can be taken by pregnant women have improved.

Kentucky HIV transmission categories include heterosexual females, men having sex with men who are intravenous drug users, other intravenous drug users, and men having sex with men without being intravenous drug users. Data from 2003 to 2012 show that 27 percent of the 3,339 Kentuckians diagnosed with HIV were also diagnosed with AIDS. Over 2,000 Kentuckians are unaware they have HIV because they have not been tested and diagnosed. As of January 1, 2013, the Department for Medicaid Services reimbursed for routine HIV screening of adults aged 15 to 65 regardless of risk in Kentucky. The Centers for Disease Control and Prevention (CDC) and the United States Preventive Services Task Force recommend that adolescents, adults, and pregnant women be screened for HIV, regardless of the risk. As of July 2013, Kentucky's HIV testing laws were consistent with CDC's 2006 HIV testing recommendations. CDC recommends that individuals between 13 and 64 years be tested for HIV.

As of July 2013, Kentucky did not require reporting of all CD4 and viral load results, including undetectable results, for surveillance purposes. CD4 and HIV viral load data are critical to the medical care and health of people living with HIV. With expanded rapid testing, there is an opportunity to help more Kentuckians know their HIV status and link to care earlier. The linkage-to-care successes are tracked by the HIV/AIDS Branch in the Department for Public Health. The Kentucky AIDS Drug Assistance Program (KADAP) and the Kentucky Health Insurance Continuation Program (KHICP) are managed by the Department for Public Health and are the payors of last resort for HIV-positive Kentuckians who meet the financial and residency eligibility criteria. With the implementation of Medicaid and qualified insurance plans available through kynect, more individuals are transitioning from KADAP to comprehensive health insurance that includes preventive treatments. Statistical reports can be located on the HIV/AIDS Branch web site at http://chfs.ky.gov/dph/epi/HIVAIDS/surveillance.com.

In response to questions by Senator Denton, Dr. Humbaugh stated that minorities and blacks have a higher percentage of HIV because of high risk factors such as men having sexing with men and intravenous drug use. The Kentucky Health Insurance Continuation Program (KHICP) is a payor of last resort for HIV-positive Kentuckians who meet the financial and residency eligibility criteria. The department receives $5 million from the federal government and rebates from drug companies for HIV/AIDS expenses.

In response to a question by Senator Givens, Dr. Humbaugh stated that the department does not have statistics that determine if blacks and non-Hispanics are being tested earlier for HIV.

In response to a question by representative Burch, Dr. Humbaugh stated that someone can go a long time and not know whether he or she has HIV.

**Adjournment**

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

## INTERIM JOINT COMMITTEE ON JUDICIARY

**Minutes of the 3rd Meeting of the 2014 Interim**

August 21, 2014

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Thursday, August 21, 2014, at 1:30 PM, at the Lexington Convention Center in Lexington, KY. Senator Whitney Westerfield, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Carroll Gibson, John Schickel, Dan "Malano" Seum, Katie Stine, and Robin L. Webb; Representatives Robert Benvenuti III, Jesse Crenshaw, Joseph M. Fischer, Kelly Flood, Stan Lee, Suzanne Miles, Ryan Quarles, Tom Riner, and Ken Upchurch.

Guests: Chris Cohron, Mike Foster, Mitchel Denham, Judge Frederick T. Moses, and Secretary J. Michael Brown.

LRC Staff: Jon Grate, Chandani Jones, Dallas Hurley, and Elishea Schweickart.

**Prosecutorial Bar Issues in Kentucky**

Speaking for the prosecutorial bar were Commonwealth's Attorney Chris Cohron, Christian County Attorney Mike Foster, and Assistant Deputy Attorney General Mitchel Denham.

Chris Cohron presented the Commonwealth's Attorneys' most pressing issues.

*ECourts*. The Administrative Offices of the Courts will begin to require electronic court filings throughout the state, which will require a substantial investment in technology systems.

*The Kentucky State Police Laboratory*. While the state crime lab does a good job, it is falling behind when it comes to technology.

*Revamping Sentencing*. Prosecutors are unable to accurately predict sentences for crime victims, which puts a strain on the justice system. Mr. Cohron expressed a desire to implement determinate sentencing in Kentucky.

*Criminal Code*. There are currently 15 percent, 20 percent, and 85 percent parole eligibility offenses, and now we are beginning to create 50 percent parole eligibility offenses. There are many examples where crimes that are not equal in severity carry the same parole eligibility, and that an improved parole eligibility structure should be examined.

*Drug abuse, heroin, and synthetic drugs.* Heroin overdose cases are being reported at a record rate, and that synthetic drug use is also on the rise. Drug laws need to continue to be examined and updated.

*DUI homicide and vehicular assault.* There have been several instances where police could not obtain evidence in DUI homicide or vehicular assault cases due to exigent circumstances. Legislation is needed to allow police to collect blood samples in emergency situations if they have probable cause.

*GPS trackers.* There have been instances where private citizens are placing GPS trackers on the vehicles or property of others, which is not addressed by Kentucky law.

*Safe Harbor Provision.* The phrase "*affirmative defense"* that is used in the KRS 529.170 is not a statutorily defined term in the state of Kentucky. Commonwealth's Attorneys want to change the phrase "affirmative defense" to "exculpatory defense."

Mike Foster addressed the most critical issues facing Kentucky County Attorneys.

*Staffing.* The biggest issue that County Attorneys seem to face each year is a lack of sufficient staffing.

*Drug abuse.* There are about 15,000 cases a year handled in Christian County, and about 75 percent of those cases are drug related.

*Drug Court and Juvenile Drug Court.* Christian County has had great success with their Drug and Juvenile Drug Court, but those courts are funded by the county in lieu of state funding, and are in need of more robust staffing.

*Consumer fraud.* Consumer fraud is on the rise. Legislation is needed that targets new forms of consumer fraud.

*Expungement law.* The current expungement law for misdemeanors has unintended consequences. He suggested a simple revision to the current law, stating that if an individual only has one misdemeanor and a five year period has passed without further convictions, that individual's record should be expunged. If an individual has more than one misdemeanor, a judge should take expungement into consideration if a significant amount of time has passed since the last misdemeanor was acquired. This revision will be limited in the areas in which it applies: it cannot be for violent crimes, there can be no felony convictions, it cannot be a sex offense, and the individual cannot be on probation.

Responding to a question from Representative Tilley, Mr. Cohron stated that despite recent legislation, synthetic drug production continues to evolve and the laws will have to be adjusted accordingly.

Responding to a question from Senator Gibson, Mr. Foster confirmed that many of his defendants are repeat offenders who suffer from substance abuse disorders. Senator Gibson then inquired of Mr. Foster's opinion as to a solution for repeat drug offenders, to which Mr. Foster suggested effective and extensive treatment.

Mitchel Denham presented the most pressing issues confronting the Office of the Attorney General (OAG) and its staffing structure:

*Budget cuts.* Overall, general funds have been cut approximately 40 percent. This is making it difficult on the OAG in several ways, one of which is the upcoming change to the electronic court filing system. Because this system is expensive, the OAG needs additional funds to update its information technology.

*The Office of Criminal Appeals.* This is the OAG's largest criminal division. Employees at the Office of Criminal Appeals reply to daily research requests, file U.S. Supreme Court briefs, and sit on the Public Corruption Task force and the Criminal Rules Committee.

*Office of Special Prosecutions.* This office handles complex and high profile cases.

*Department of Criminal Investigations.* This office is divided into two different branches, the Public Integrity Branch and the Drug Enforcement Branch.

*Cyber Crimes Unit.* This unit was created in 2008, and has seized over 500,000 images from the internet and helped achieve 130 child pornography convictions.

*Office of the Prosecutors Advisory Council.* This office is the administrative arm for all state prosecutors.

*Office of Medicaid Fraud and Abuse Control.* This office investigates and prosecutes patient abuse charges and Medicaid fraud.

*Office of Victims Advocacy.* Provides support to local victim's advocates. This office is also working on a Domestic Violence Fatality Review report which will be released in coming months.

*Settlement money for drug treatment.* In January of 2014, $32 million was recovered from two pharmaceutical settlements. A majority of the settlement money went to the Substance Abuse Treatment Advisory Committee.

**Use of Vivitrol to Prevent Opioid Relapse in A Drug Court Setting**

Judge Fredrick T. Moses from Hocking County, Ohio spoke about successfully utilizing Vivitrol to treat opioid addiction. The benefits of using Vivitrol include its inability to be abused. It contains no opioids and produces an immediate elevation in mood. Judge Moses addressed the negative impacts of Suboxone, including drug diversion, medical fraud by doctors, and overdoses.

The Hocking County Drug Court, over which Judge Moses presides, is a standard four phase drug court program;

*Stabilization Phase:* Candidates are screened upon entering the program.

*Engagement Phase:* Participants receive intense treatments throughout the program.

*Action Phase:* Participants begin to cut back on the number of appointment they are required to attend.

*Continuation Phase:* Appointments are cut even further back.

There are four graduates from this program, all of which have remained clean since completing their treatments, and 20 individuals are currently enrolled.

Responding to questions from Senator Westerfield, Judge Moses said that the program was funded with state and federal grants. Shots are was administered through a primary care agency. He does not see a downside to using Vivitrol. Responding to a question from Senator Stine, Judge Moses explained that Vivitrol helps stabilize patients in drug treatment, but for it to be effective it must be used with other drug treatment therapies.

**Penal Code & Parole Reform**

Secretary J. Michael Brown discussed penal code and parole reform and the evolution of Kentucky's Penal Code. He explained that the last effort to reform the penal code was in 2010 when the Task Force on the Penal Code and Controlled Substances Act was formed. The findings of the Task Force were used to create HB 463 in 2011, substantially reforming Kentucky's drug laws, but it failed to reform Kentucky's Penal Code. Secretary Brown said the time is right for penal code reform.

Secretary Brown addressed issues concerning the Parole Board. Kentucky's indeterminate sentencing structure has led to confusion among crime victims and prosecutors, which undermines the entire criminal justice system. In 2013, the Parole Board claimed to work 21,236 cases, which Secretary Brown said was impossible. He expressed frustration with the definition of "violent offender" in KRS Chapter 439 which arguably omits several violent crimes to the dismay of prosecutors and crime victims.

Secretary Brown said that Kentucky is in a situation of "compression." There is compression of Kentucky's felony categories and in parole eligibility, and study and revisions are needed.

The meeting adjourned at 3:00 PM.

## INTERIM JOINT COMMITTEE ON JUDICIARY

### Minutes of the 4th Meeting of the 2014 Interim

September 5, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Judiciary was held on Friday, September 5, 2014, at 10:00 AM, at the Administrative Office of the Courts in Frankfort, KY. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Sara Beth Gregory, Ray S. Jones II, John Schickel, Dan "Malano" Seum, Katie Stine; Representatives Robert Benvenuti III, Jesse Crenshaw, Joseph M. Fischer, Kelly Flood, Joni L. Jenkins, Thomas Kerr, Stan Lee, Mary Lou Marzian, Reginald Meeks, Tom Riner, Steven Rudy, and Brent Yonts.

Guests: Chief Justice John D. Minton, Jr.

LRC Staff: Jon Grate, Matt Trebelhorn, Alice Lyon, Chandani Jones, Dallas Hurley, Dale Hardy, and Elishea Schweickart.

**State of the Judiciary Address**

After a brief introduction, Chief Justice John Minton Jr. presented the State of the Judiciary address.

Chief Justice Minton spoke of the changes that the Administrative Office of the Courts (AOC) has undergone. In November of 2013, AOC moved to its new location on Vandalay Drive in Frankfort. AOC is now able to own its own building and forgo lease payments, having spent $16.7 million since 1987 on its old leased location. The AOC also saved $800,000 off the original purchase price and approximately $1 million a year in lease payments. This building move has also been beneficial to AOC staff, who now work in a single building instead of five. The move benefits state government, as the building has hosted

43 meetings for other state agencies in 2014.

**Better Service through Court Technology**

Chief Justice Minton believes that the key to better courts is technology, and the eCourt program will effectively and efficiently improve the court system. The eCourt program will upgrade technological infrastructure, replace the current systems for trial and appellate courts, and will electronically store an index of all court documents. He discussed the substantial amount of money that e-filing will save individuals and the state. Since December 2013, AOC has been working to improve the eCourts system. Pilots have been set up in 18 counties. By the end of 2015, AOC plans to have this system available statewide.

**CourtNet 2.0**

Approximately 4,000 users have subscribed to Kentucky's CourtNet 2.0 since it was launched in March 2013. The program provides real time access to civil and criminal cases in Kentucky, and is available to members of the Kentucky Bar Association, judges, justices, court clerks, and offices within state government. CourtNet 2.0 will be provided to law enforcement, media, and the public by the end of 2014.

**Accounts Receivable Project**

Fifty-six counties participate in AOC's accounts receivable system, allowing funds to be reported to the state general fund electronically. AOC plans to have this system fully implemented in every county by the end of 2015. A restitution model is being developed that will calculate interest owed on court ordered restitution. Once it is fully developed and tested, the model will be released as part of the accounts receivable system.

**Improving Pretrial Services**

The Kentucky Pretrial Services program continues to be a model for other states, having produced measurable positive results. Crime has been reduced 15 percent among defendants on pretrial release. There has also been an increase in the number of defendants released before trial. In July 2014, the Arnold Foundation released a study stating, in part, that "Kentucky judges have reduced crime, reduced jail populations, and led to a smarter, more effective use of criminal justice resources."

**Judicial Branch Compensation Plan**

With the passage of House Bill 238, the general fund appropriation was increased and funding was secured for the judicial branch's comprehensive Compensation Plan. In July 2014, all nonelected employees in the judicial branch received a salary adjustment under the Judicial Branch Compensation Plan. Nonelected court personnel will receive an annual raise for both years of the budget cycle. The bill also allowed circuit court clerks to achieve pay parity with other elected county officials.

Elected judges have not received a raise in their compensation since a one percent increase in 2008. In Kentucky, judges earn 17.5 percent less than their counterparts in the national average and rank 7th among the 8 surrounding states. Chief Justice Minton expressed his concern that inadequate salaries and a reduction in pension benefits may hamper efforts to attract the best lawyers to take the bench.

**Juvenile Justice Reform**

AOC is working on implementation of Senate Bill 200, which calls for AOC to offer enhanced services through its Court Designated Worker Program, collaborate on data sharing and collection, provide more case management services, and develop training for staff and community partners. AOC has made progress in all of these areas.

**Circuit Court Clerk Conduct Commission**

The Circuit Court Clerk Conduct Commission was established by Supreme Court order in January 2013. This commission will investigate and conduct hearings on all alleged misconduct. The first Circuit Court Clerk Code of Conduct, which sets ethical standards for Circuit Court Clerks, was implemented this year.

**Judicial Center Construction**

The six judicial centers that have been under construction since October 2013 have now been completed. New judicial centers have also been authorized in Henry and Nicholas counties, with funding deferred to the next budget cycle. There are no new facilities under construction at this time.

**2014 Election Will Bring New Judges**

AOC will be hosting a comprehensive New Judges Orientation in December 2014. This orientation will help new judges prepare to take the bench and will include several different sessions on judicial ethics and conduct, civil proceedings, criminal issues, jury management, case management, probate, and family law.

**Kentucky Drug Court**

Kentucky Drug Court is a success for the state, but it is facing some small difficulties. In October 2010, Kentucky Drug Court was serving nearly 3000 participants, but now that number is only at 2,366. This decrease is due to budget cuts, insufficient staffing, and modified schedules for drug testing. Chief Justice Minton also stated that penal code reform has contributed to the decline in Drug Court numbers, with many defendants choosing the less-restrictive sentencing options available under House Bill 463.

Three areas of improvement have been identified by the AOC in order to meet changing needs of this program:

> *High Risk/High Need.* National research shows that Drug Court is most effective among high risk and high need defendants. In order to reach a higher level of service, additional funding will be needed.
>
> *Evidence-Based Practices.* In order to carry out the evidence-based practices required in House Bill 463, Drug Court judges and staff will require ongoing training.
>
> *Increasing Participant Numbers.* The length and the demands of the program can result in defendants opting for less restrictive sentencing alternatives.

Chief Justice Minton suggested that a well-structured expungement process for Drug Court graduates would give defendants an incentive to choose Drug Court in lieu of other sentencing options. He stressed the benefits of Drug Court, which include significant savings to the court system, state prisons, and county jails. Encouraging more defendants to choose Drug Court would likely result in fewer convictions because defendants get the help that they need.

**Judicial Workload Study**

A statewide judicial workload study is required by the Judicial Branch budget bill. This study will evaluate caseloads across the state using a process that can quantify caseloads while considering jurisdictional idiosyncrasies. A Judicial Workload Assessment Committee has also been appointed that is comprised of judges from each level of the court system, circuit court clerks, and prosecutors. AOC has contracted with the National Center for State Courts, and will begin this study in October.

**Committee Discussion**

Responding to a question from Senator Schickel regarding the confidentiality of minors requesting a judicial bypass for abortion, Chief Justice Minton said he is unsure of the answer but will look into it and discuss it with the committee at a later time.

Responding to a question from Representative Rudy, Chief Justice Minton said that AOC buildings are assessed and put onto a priority list. Representative Rudy asked about the Circuit Court Clerk Conduct Commission, to which Chief Justice Minton replied that information on the code of conduct and membership is available on the website.

Responding to a question from Representative Yonts, Chief Justice Minton said that a standardized way of counting caseloads is needed.

Responding to a question from Representative Yonts, Chief Justice Minton said that the Criminal Rules Committee is reviewing the American Bar Association death penalty study.

Responding to a request from Senator Stine, Chief Justice Minton said he will do his best to get more information on judicial bypass cases for abortion in Kentucky.

Responding to a question from Senator Jones, Chief Justice Minton said that the Compensation Commission has looked into various models to get a benchmark on compensation for judges. He is trying to address the pension issue in Kentucky and hopes to get further information.

Responding to a question from Senator Gregory regarding courthouse security, Chief Justice Minton stated that security is taken into account when it comes to the construction priority list, and that AOC tries to set security standards.

Responding to a question from Senator Seum, Chief Justice Minton said that in some places in Kentucky, circuit court clerks are earning higher wages than judges. Senator Seum asked about the requirements to become a circuit court clerk, and the Chief Justice replied that there is an exam but the position does not require a law degree. Responding to another question, Chief Justice Minton said that eWarrants are statewide.

Responding to a question from Senator Gibson, Chief Justice Minton deferred to Director Laurie Dudgeon, who said that funding is broken down in particular areas in the budget. Senator Gibson inquired about security of the eFile system, to which Chief Justice Minton said that security is a concern, which is why AOC is taking time to establish the system.

Representative Fischer asked Chief Justice Minton's opinion on how to curb the heroin problem in Kentucky. Chief Justice Minton replied that handling a heroin user in Drug Court is challenging. Drug Court employees and those who work in the field could be of help to the legislature.

The meeting adjourned at 12:00 PM.

## INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

**Minutes of the 4th Meeting of the 2014 Interim**

September 10, 2014

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Wednesday, September 10, 2014, at 10:30 AM (CDT), at Kentucky Dam Village State Resort Park in Gilbertsville, Kentucky. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Chris Girdler, Denise Harper Angel, Ernie Harris, Jimmy Higdon, and Dennis Parrett; Representatives Lynn Bechler, Denver Butler, Will Coursey, Jeffery Donohue, C.B. Embry Jr., Dennis Horlander, Joni L. Jenkins, Adam Koenig, Mary Lou Marzian, Charles Miller, Terry Mills, Tom Riner, Jim Stewart III, and Brent Yonts.

Guests: Secretary Larry Roberts, Kentucky Labor Cabinet; Kim Perry, Director, Division of Occupational Safety and Health Education and Training, Kentucky Labor Cabinet; Commissioner of Workforce Investment Beth Brinly, Kentucky Education and Workforce Development Cabinet.

LRC Staff: Carla Montgomery, Matt Ross, Adanna Hydes, and Sasche Allen.

**Approval of Minutes**

A motion by Representative Koenig and a second by Senator Kerr to approve the minutes of the August 21 meeting carried by voice vote.

**Announcement**

Secretary Larry Roberts announced that Senator Julian Carroll's wife passed away. Co-Chair Nelson requested a moment of silence.

**Cooperation and Collaboration in Workplace Safety and Apprenticeship**

Secretary Larry Roberts welcomed members to the 37th annual Labor Management Conference, whose theme for 2014 is A Blueprint for Success. As a participant, staff, sponsor, or supporter, Secretary Roberts has been involved with the conference for 36 years. Through partnerships with the Cabinet for Economic Development and the Education and Workforce Development Cabinet, the Labor Cabinet is able to promote health and safety programs, apprenticeship initiatives, and positive labor management relations.

Kim Perry, Director of the Division of Occupational Safety and Health (OSH) Education and Training, highlighted some of the Labor Cabinet's current and upcoming programs, projects, and partnerships. One of the major programs is the 2014 Fall Prevention Stand Down. The Fall Prevention Stand Down campaign's main goal is to bring awareness to employers and employees about safety in the workplace and, in particular, fall hazards and prevention. Falls are the main cause of death in the construction industry. Out of 774 deaths nationwide that occurred in construction workplaces in 2010, 264 were the result of falling, which is entirely preventable.

The employers that take part in the program include government agencies, professional societies, consumer and labor management interest organizations, and also sub-and independent contractors. The cabinet's Fall Prevention Stand Down receives aid from the Occupational Safety and Health Administration (OSHA), whose partnerships include the National Institute for Occupational Safety and Health (NIOSH), the Center for Construction Research and Training (CPWR), and the American Society of Safety Engineers (ASSE)

Many sources have been used to promote Fall Prevention Stand Down, including social media, email blasts, and press releases. Flyers were distributed in both English and Spanish that included various statistics, such as 46.8 percent of deaths among Kentucky construction workers from 2007 to the present were the result of a fall. In June 2014, the Labor Cabinet hosted OSH Stand Down events where it showcased the eLearning program module that concentrates on fall prevention to employers and employees. The module is also available online with an English and Spanish version. By hosting these events, the Kentucky OSH was able to reach 480 employees from 25 different employers. The online modules and other online resources available, Stand Up and Be Recognized, reached 7,600 employees from 37 different employers.

Ms. Perry discussed other projects that the Labor Cabinet is involved with through partnerships with various companies. The Construction Partnership Program has allowed the cabinet to facilitate the restoration of the National Corvette Museum with Scott, Murphy & Daniel Building Construction Specialists, the expansion of the Louisville Ford Motor Company Truck Plant with Abel, Aristeo, and Walbridge companies, and the creation of the Louisville Ford Truck Plant Paint Shop with the company Durr. Another partnership is the $90 million project with Gray Construction that will allow Canadian-based Champion Pet Food Kitchen to open—projected in 2016—its first U.S. production company in Kentucky.

Other projects discussed were the collaboration with Skanska USA Inc. and Congleton-Hacker Company for the expansion of Commonwealth Stadium at the University of Kentucky and the agreement with Walsh Construction to complete the Ohio River bridges project. Eastern Kentucky University will have a training-based partnership with the OSHA Training Institute that will offer an undergraduate program for occupational safety and health.

The cabinet is working with the Kentucky Department of Education's Office of Career and Technical Education (CTE) on the Track Program. The Track Program is an apprenticeship program that aids high school students with their transition into the workforce by offering hands-on training, the Labor Cabinet's eLearning resource and online modules, and credit that can go towards college. The Labor Cabinet and CTE developed a survey to gather comments and suggestions from teachers and principals to better serve the students who are entering the Track Program. They received constructive feedback.

Secretary Roberts spoke briefly about the partnership agreements that Kim Perry discussed. The partnerships are those of both organized and unorganized companies. Additionally, the cabinet is working with all partners to advocate a safe work environment. He elaborated further on the Track Program. There are several new, improved, and upcoming Track initiatives. Track works with high school juniors and seniors to pinpoint curriculum that can equate with a registered apprenticeship program, giving students opportunities for job placement. Although the apprenticeships are largely in the manufacturing industry, the Labor Cabinet hopes to expand into other areas.

Responding to a question from Representative Miller, Ms. Perry stated that the purpose for the survey was to see what areas were in demand for the students entering the Track Program so that those modules could be offered to them to better serve their areas of interest. By using the feedback that was received, new modules will be developed to better serve future participants in the Track Program.

**Unemployment Insurance Trust Fund**

Commissioner Beth Brinly, Department of Workforce Investment, Education and Workforce Development Cabinet, reported on the status of the unemployment insurance trust fund and affirmed the progress of repaying the federal unemployment insurance loan. The initial loan balance was $1.1 billion, but the current balance is $339 million due to efforts of the Governor, legislature, and employees. Commissioner Brinly commended the committee for its cooperation with the cabinet that resulted in the strengthening of the unemployment insurance trust fund.

In regards to the amount of benefits paid, there has been a decrease of 19.4 percent from last year, falling from $324.4 million to $260.5 million. From January 2014 to August 2014, covered employers' contributions have increased 5.1 percent, rising from $459.9 million to $483 million. Initial claims went from 147,302 to 126,349, down 14.2 percent, and the number of weeks that benefits were claimed has been lowered by 14.8 percent. There has been an overwhelming amount of contribution to the surcharge program, with surcharge collections at $24.7 million. The payment of interest on the unemployment insurance loan is scheduled for September 30, 2014, while the quarterly and principle payments to JP Morgan Chase were made August 29, 2014, with both payments amounting to $22.3 million.

Kentucky started 2014 with a federal unemployment balance of $639.8 million; the current balance is $339 million. The goal for the payoff of the unemployment insurance loan is 2015, seven years earlier than originally foreseen, and may help employers save $130 million in 2016. The earlier than anticipated payoff target is due to enhancements in the economy, being responsible by putting all unemployment insurance contributions towards the loan and only borrowing as needed to pay the benefits, and structural improvements that have been made through legislation. The structural changes that were made were due to House Bill 5 in the 2010 Special Session and House Bill 495 in the 2012 Regular Session, which increased the tax bill wage base, lowered wage benefit rates, and applied a waiting week in federal credit reduction.

The unemployment insurance systems are being updated. Out of 61 recommendations from the Business Efficiency and Effectiveness Report, one-third has been completed, a third is in progress, and a third is pending future completion. Due to House Bill 495, the unemployment insurance surcharge of 0.22 percent went into effect in January 2014. Collections from the surcharge were used to make the quarterly and principle payments of the commercial loan to JP Morgan Chase on August 29, 2014, and will also be used to pay interest on the federal unemployment insurance loan scheduled for September 30, 2014. The fifth-year waiver and substitution application was submitted in June 2014 to the U.S. Department of Labor. There were no steps taken that would reduce the solvency of the unemployment insurance trust fund, which would help in the approval of the waiver.

Commissioner Brinly gave an in-depth description of the progression of the unemployment insurance trust fund, stating that in 2009 Kentucky became the sixth borrowing state, which resulted in the formation of the Unemployment Insurance Task Force and passage of House Bill 5. In the same year, Kentucky borrowed $622.5 million but began paying off the loan in 2012 as a result of the law changes, the economy improving, and the federal credit reduction. By 2013, the state began applying contributions on a daily basis towards paying off the loan, which saved over $500,000 in interest payments in 2014. House Bill 495 authorized the commercial loan with JP Morgan Chase to pay the interest. As a result, the surcharge of the state taxable wage base of 0.22 percent went in to effect January of 2014, and thus far amounts to more than $24.7 million. Surcharge collections were used to pay the principle repayment and interest payment to JP Morgan Chase on August 29, 2014, which amounted to $9.2 million, and will be used to pay the interest on the federal loan on September 30, 2014, which will amount to $13.1 million.

Commissioner Brinly reported that, because Kentucky had an unemployment insurance loan balance for a fifth year, there may be a supplementary add-on tax increase on employers called a benefit cost rate (BCR). This add-on tax will collect approximately one percent from employers on the $7,000 federal taxable wage base. For 2014, the total BCR for Kentucky employers is anticipated to be $112 million. Furthermore, the possible fifth year waiver of the add-on could be received by November 10, 2014. She thanked the committee for the actions taken in maintaining the progress of the unemployment insurance trust fund.

Replying to a question from Senator Kerr, Commissioner Brinly said there is a good chance of receiving the add-on waiver because there have not been any judicial decisions or legislative action to negatively affect the unemployment insurance trust fund. It is crucial that, until the federal loan is paid, there should not be any executive, legislative, or judicial decisions that would have a considerable affect on the unemployment insurance trust fund, such as new categories of unemployment insurance recipients or a reversal of the increase of the wage base.

Addressing Senator Kerr's follow up question, Commissioner Brinly said the estimated BCR for Kentucky employers would be $112 million from an estimated 84,000 employers in the state. She could not address the specific costs per employee.

Responding to Representative Yonts, Commissioner Brinly confirmed that the 0.22 percent surcharge is scheduled to be in effect until 2022. The surcharge was made effective until that time due to 2022 being the original anticipated time of repayment.

Responding to Representative Bechler, Commissioner Brinly verified that the payoff expectancy is August 2015. If the trust fund becomes solvent, the cabinet will request the legislature to terminate the surcharge to employers.

There being no further business, the meeting adjourned at 11:30 a.m.

## INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

**Minutes of the 4th Meeting of the 2014 Interim**

September 12, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, September 12, 2014, at 10:00 AM, at Keeneland Race Course. Representative Dennis Keene, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Denise Harper Angel, Jimmy Higdon, Morgan McGarvey, R.J. Palmer II, Dan "Malano" Seum, and Damon Thayer; Representatives Julie Raque Adams, Denver Butler, Larry Clark, Jeffery Donohue, David Floyd, Joni L. Jenkins, Reginald Meeks, Charles Miller, Brad Montell, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Arnold Simpson, and Susan Westrom.

Guests: Vince Gabbert, Vice President/COO, Keeneland Race Course; John T. Ward, Jr., Executive Director, Mary Scollay, D.V.M., Equine Medical Director, Jamie Eads, Director of Incentives and Development, Kentucky Horse Racing Commission; Brad Cummings, President/CEO, EquiLottery.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Michel Sanderson, and Susan Cunningham.

**Approval of minutes for August 12, 2014 meeting**

A motion to approve the minutes of the August 12, 2014 meeting was made by Representative Miller and seconded by Representative Palumbo. The motion carried by voice vote.

Representative Keene spoke about the passing of Charlann Carroll, wife of Senator Julian Carroll, and recognized Senator Schickel for remarks. Senator Schickel described his first contact with then-Governor Carroll while working as a police officer, called to the scene of the Beverly Hills Supper Club fire. Senator Schickel called for a moment of silence in memory of Mrs. Carroll.

Vince Gabbert, Vice President and Chief Operating Office of Keeneland Race Course, welcomed the committee to the race track. Four days into the September yearling sales, business has been consistent and very strong. In the fall of 2015, Keeneland will host the Breeders Cup. Construction is underway for a temporary luxury Chalet. Twenty-six million dollars in purse money is awarded during the two day event. The economic impact for not only Keeneland but the entire community is expected to be significant. Like the World Equestrian games, there will be a festival-type atmosphere with events in downtown Lexington. Keeneland will ask the legislature to reenact a statute that was used during the Breeders Cup event in Louisville to exempt the pari-mutuel tax for the two days of the event.

**Kentucky Horse Racing Commission**

John Ward, Jr., Executive Director of the Kentucky Horse Racing Commission, said it is the commission's responsibility to make sure that the Breeders Cup events are held to the highest standard. The status of racing in Kentucky has declined in recent years; however, historical racing is improving and Kentucky bettors support the racing industry.

In response to a question from Representative Clark, Mr. Ward said the historical racing environment is very healthy. It was found that local management does a better job of promoting the racing than outside marketing companies.

Jamie Eads, Director of Incentives and Development, said in 1978 the Thoroughbred Development Fund was established to encourage owners to buy from Kentucky markets, breed to Kentucky stallions, board in Kentucky, and race on Kentucky racetracks.

The official breeding registrar is the Kentucky Thoroughbred Owners and Breeders Association. In 2013, $5.8 million was paid from the fund to supplemental purses at Kentucky tracks. So far this year a little over $3 million has been paid. In September $2.4 million is being paid at Kentucky Downs and $250,000 at Churchill Downs. A committee consisting of five members is appointed annually to advise KHRC on how the fund should be split for purses. In 2014, legislation amended the statutes to include allowance optional claiming races for a price of not less than $25,000. The intent was to provide another opportunity for horses to race in Kentucky. Also enacted in 2014 was legislation transferring $1 million from the Kentucky Equine Drug Research Council to the Kentucky Thoroughbred Development Fund to enhance purses.

The Kentucky Standardbred Development Fund was established in 1976 and the KHRC is the official registrar. This program is a mirror of the Thoroughbred fund with a goal of encouraging owners to buy Kentucky horses, breed Kentucky stallions, and race Kentucky foaled horses on Kentucky racetracks. In 2013, the advisory panel for the Standardbred fund recognized a need to amend regulations due to short fields. A new regulation was filed and approved in December of 2013 allowing foals of a stallion or a mare that stood in the state for 180 consecutive days to be eligible for purses.

Mary Scollay, D.V.M., Equine Medical Director, KHRC, said that one aspect of the commission's regulatory duties is to monitor for emerging threats to the integrity of the sport. Cobalt is a method of blood doping that enhances the performance of a horse by increasing oxygen delivered into the body. Cobalt is a trace mineral that is a component of B vitamins. Cobalt is present in the body naturally; however, because it is not synthesized by the body it would have to be ingested or injected to be in the animal. Because this mineral needs to be in the body, regulation is necessary. After studying post race samples from 900 horses, a pattern was developed to establish the normal level and what an enhanced Cobalt level might resemble. Research is ongoing to determine 1) the normal range of Cobalt in a racehorse, 2) the effect of legitimate vitamin and mineral supplements (vitamin B injections) on Cobalt concentrations, and 3) the concentration and detections periods associated with administering consistent blood doping. Cobalt toxicity can cause thyroid disease, heart disease, and death. Kentucky is part of an international collaboration to address this issue. A regulatory threshold for Cobalt will be recommended to the Racing Medication and Testing Consortium (RMTC) at its October 13 meeting.

In response to a question from Representative Osborne, Dr. Scollay said it is her opinion that individual racing jurisdictions should not establish thresholds without the consensus of the RMTC based on research.

Senator Thayer commented that he appreciated the work that Jamie Eads and Dr. Scollay were doing at the racing commission.

**EquiLottery**

Brad Cummings, President and CEO, EquiLottery, LLC said that in July, 2014, his company introduced a new concept in lottery gaming called EquiLottery, "The Greatest 2 Dollars in Sports." Twenty-seven states and racing interests worldwide have been in touch with the company expressing interest.

EquiLottery will be sold through lottery terminals. It will require software integration but no modification to existing lottery machines. EquiLottery has formed a relationship with the three major lottery vendors in the United States and with the Tote systems used for pari-mutuel wagering at tracks. The game will consist of quick pick only, on one race per day. Profit margins are in line with other lottery products, and there is potential to add approximately 15 percent new players to the lottery customer base. Gaming Laboratories International provided a revenue analysis estimating the game would generate $25 million in the first year through the Kentucky Lottery. By adding a multi-state split the amount of profit increases by $30 million annually. Calculating ten states playing the Kentucky Derby in lottery terminals, a projected $97 million would be added to the handle.

EquiLottery has opined that the game would be an extension of the intent expressed in KRS 154A.065, relating to the contests involving horses that may be a basis for a lottery. The statute provides that "The corporation may utilize horse racing or contests involving horses for any purpose including, but not limited to, advertising, promoting, conducting a lottery, or as a basis for a lottery, after obtaining the necessary permission from the horse racing track or sponsoring authority involved." The major difference between Powerball and Mega Millions is that the EquiLottery pari-mutuel pool is at a race track.

EquiLottery players purchase a $2 ticket. The money from the purchase is split with $1 going to the Kentucky Lottery pool and $1 to the EquiLottery pool. Part of the Kentucky Lottery dollar goes into a supplemental pool, paid into only by EquiLottery players and paid out only to EquiLottery players. The other dollar goes to the race track where the race is taking place and is applied as an exotic wager. A winning player receives a percentage from the supplemental pool and from the payout from the exotic wager. The EquiLottery race of the day is the last race on the card.

This is a new lottery game that will draw new lottery players and appeal to existing lottery players. There are two international models that have proven successful. France has used this type of lottery since 1956 and attributes its horse racing viability to the lottery. EquiLottery will make more money available to the CAP, KTG and KEES grant and scholarship programs. LaFleur's Magazine, a major lottery publication, commented that this product is generating a great deal of interest. It is estimated that the first year handle will increase over $30 million. Three thousand lottery terminals statewide will offer the game to a new group of players. Major stallion farms in Kentucky, the five major thoroughbred race tracks, the Kentucky Thoroughbred Owners and Breeders Association, and the Horsemen's Benevolent and Protective Association support the program.

In response to a question from Representative Clark, Mr. Cummings said there is no projection on the impact this program would have on the Kentucky Lottery game of Keno.

In response to a question from Senator Seum, Mr. Cummings said there will be a multi-tiered system. There will be one race per day offered to those who purchase a ticket. The player will ask for an EquiLottery ticket of the day. The ticket will note where the race is running and where to watch the race. The ticket will be a quick pick that lists the numbers and names of the horses.

In response to a question from Representative Meeks, Mr. Cummings said that on Monday and Tuesday there are no live races in Kentucky, so there is a possibility that other states would have races for play. Additionally, other marquee races such as the Belmont, Preakness, or the Breeders Cup would provide an opportunity for EquiLottery play. EquiLottery has visited California, New Mexico, and West Virginia to explore the potential for going online in those states. EquiLottery could go live at the 2015 Keeneland meet.

In response to a question from Senator Buford, Mr. Cummings said because the lottery is a game of chance and not of skill, EquiLottery tickets are quick picks. Players do not pick the horses that they play; the selection is totally random. The race will be the last race of each day.

In response to a question from Representative Osborne, Mr. Cummings said EquiLottery would like to re-engage conversations with Kentucky Lottery Corporation after this meeting.

In response to a question from Representative Owens, Mr. Cummings said on days where there is no racing at a Kentucky track, generally either Monday and Tuesday, or Monday, Tuesday, and Wednesday, EquiLottery would like to contract with racetracks outside Kentucky that have racing on those days.

In response to a question form Representative Floyd, Mr. Cummings said on the rare occasion when a race is run out-of-state, the Kentucky Lottery would still get $1; however, the other $1 goes to the track in the state where the race is being run.

In response to a question from Senator McGarvey, Mr. Cummings said the $2 ticket could be connected to any exotic wager of three numbers of more: a trifecta, a superfecta, a pick six, or a super high five. This creates a larger return. Payouts are determined by a combination of the money won on the quick pick and the amount of money in the supplemental pool. Ticket numbers are randomly generated regardless of the odds.

In response to a question from Senator Thayer, Mr. Cummings said it is the belief of EquiLottery, after legal research, that the Kentucky Lottery Corporation has the authority to implement this game. EquiLottery believes this game is no different than PowerBall and Mega Millions. Senator Thayer commented that a letter from the co-chairs to the Kentucky Lottery Corporation to encourage their cooperation may be in order if the corporation does not communicate with EquiLottery in 30 days.

In response to Representative Palumbo, Mr. Cummings said EquiLottery has met with Kentucky Lottery about twice in the last two years, the last time in September of 2013, which was about when Keno went online.

Representative Keene announced that the next committee meeting will be at 10 AM on October 10, 2014, at Chrisman Mills Winery in Jessamine County.

There being no further business, the meeting was adjourned at 11:21 AM.

# INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

## Minutes of the 3rd Meeting of the 2014 Interim

September 24, 2014

**Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on Local Government was held on Wednesday, September 24, 2014, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Ernie Harris, Christian McDaniel, Albert Robinson, Dan "Malano" Seum, Damon Thayer, and Reginald Thomas; Representatives Julie Raque Adams, Ron Crimm, Mike Denham, Adam Koenig, Stan Lee, Brian Linder, Tom McKee, Michael Meredith, Arnold Simpson, Kevin Sinnette, Rita Smart, and Jim Wayne.

Guests: Michael Davis, David Moore, and Dennis Rodgers, Department of Housing, Buildings and Construction; Peter Kraska, Eastern Kentucky University; Rick Sanders, Jeffersontown Chief of Police; J.D. Chaney and Bert May, Kentucky League of Cities; and Shellie Hampton, Kentucky Association of Counties.

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

**Approval of Minutes**

Upon the motion of Representative Crimm and second by Representative Linder, the minutes of the August 27, 2014 meeting were approved.

**Consideration of Referred Administrative Regulations**

The committee considered the following referred administrative regulations, which relate to the Department of Housing, Buildings and Construction's Division of Plumbing: 815 KAR 20:040 (truck identification); 815 KAR 20:050 (installation permits); 815 KAR 20:060 (quality and weight of materials); 815 KAR 20:070 (fixtures); 815 KAR 20:090 (soil, waste, and vent systems); 815 KAR 20:130 (house sewers and storm water piping; methods of installation); and 815 KAR 20:191 (minimum fixture requirements). Representative Riggs stated that a written report of the review will be submitted to LRC.

**Militarization of Police**

Representative Riggs stated that the purpose of the meeting was to give members a better understanding of how the use of military-style equipment affects local agencies their communities. Law enforcement agencies in Kentucky have equipped themselves with military equipment for years through the Department of Defense's 1033 program, which provides refurbished military equipment at no cost or at discounted prices.

Dr. Peter Kraska, Chair of the Justice Graduate Studies Program at Eastern Kentucky University has researched the militarization of police over the last 25 years. He said that there should be a clear line between US military forces and civilian police forces, but the line is blurring significantly.

The Posse Comitatus Act of 1878 prohibited the military and civilian police from training and working together, thereby keeping them separate. The Reagan Administration pushed for the Act's repeal, but it is still in place. However, amendments have allowed the military to aid civilian police when needed.

In the mid-1980s, there were 3,000 Special Weapons and Tactics Team (SWAT) deployments per year. By 2014, there were 60,000 SWAT deployments per year. The SWAT teams went from 98 percent reactive deployments to 85 percent proactive deployments, which were drug raids at private homes. This is not the norm for Kentucky. The issue is the normalization of a mindset.

There are three avenues for military grade equipment and weaponry: (1) Department of Homeland Security/Department of Justice; (2) Department of Defense's 1033 program; and (3) asset forfeiture, which amounts to massive sums of money confiscated by local police.

The key is misapplication of military equipment by local police. The weapons have been abused and used inappropriately.

Representative Riggs said that there is a lot of controversy and concern about local police use of the equipment and insufficient training for local police military-style work.

Chief Rick Sanders, Jeffersontown Chief of Police and President of the Kentucky Association of Chiefs of Police, said he was testifying because of what happened in Ferguson, Missouri, where officers responded to protests and riots using military-style weapons against civilians. Police departments need equipment because the military will not be able to respond. The responders will be police, firemen, and EMS. Tools need to be given to the officers so they can do their jobs. Most of the equipment that the Jeffersontown Police Department uses from the 1033 program is in the form of first-aid kits, stretchers, and knives. There are escalating instances such as the 9/11 attack on the Pentagon, local hostage taking, and weapons discharging in which other equipment might be needed.

He said the it is important to hold officers accountable for misuse of equipment but not to prohibit them from using it properly. Police officers do a good job 98 percent of the time.

In response to a question from Representative Smart, Dr. Kraska said that a large percentage of the armored vehicles used by local police are new and built by private sector companies.

In response to a question from Representative Adams, Chief Sanders said that more officers and equipment are needed. If the police departments can use the 1033 program to obtain some of that equipment and then use the tax dollars for additional officers, then that is the prudent thing to do. Dr. Kraska said the issue is whether it is more important to have a $300,000 vehicle or more officers. The vehicles are not being used in most localities.

Representative Riggs said that no one oversees the misapplication of equipment. There should be a review by someone who is not biased.

In response to a question from Senator Thomas, Dr. Kraska said that the issue is not whether police should be properly outfitted to handle serious situations; they need to be. However, there are unintended consequences of a massive federal program that is taking supplies from the Iraq war and transferring them to the democratic civilian police.

In response to a question from Senator Thomas, Chief Sanders stated that if a chief is not acting responsibly he should be replaced. Leadership, training, and accountability are keys.

Senator Seum said that after 9/11, people from surrounding communities went to New York City to help. One of the biggest problems noted when it was over was that a lot of police, EMS, and fire departments could not communicate with each other. As Chair of the Veterans and Military Affairs Committee, he invited Homeland Security to talk to the committee. It was discovered that there was no ability to communicate with each other even in Jefferson County, Kentucky. The committee held a meeting in Owensboro with several communities to find out what was going to be done. A result was that a lot of equipment, such as radios, went through Homeland Security to various communities that could not afford to buy it. He had been able to obtain equipment for some of his small cities so they could communicate with each other in times of emergency.

In response to a question from Representative Sinnette, Dr. Kraska said that he had conducted a multi-year study, looking at Section 1983 civil rights cases in particular, involving quick knock and no-knock controversial raids. It is extremely difficult to win a lawsuit against a municipality or a police department, so the success rate is not very high. He found that there is a lot more of this activity taking place. DEA policies prompted pursuit of small-time drug offenses. This type of entry is a disproportionate response to a low-level offense and places police in harm's way. Chief Sanders stated that he believes that SWAT is not being used for small-time drug offenses, and that his department does everything possible before serving a warrant.

Representative Riggs said that he hears a lot about data breaches and identity theft. He asked Chief Sanders to take that message back to his police department.

Representative Wayne said that he sees common ground between Chief Sanders and Dr. Kraska in that there is a need for public safety. There should be professionals who are trained when a crisis occurs. More importantly, there is the need to invest in the prevention infrastructure. There should be investment in mental health services and treatment facilities for those addicted to drugs and alcohol.

Senator McDaniel said that elected officials have a heavy responsibility and are accountable for their actions relating to police personnel and policies.

In response to a question from Senator McDaniel, Chief Sanders stated that warrants must be signed by a judge.

Representative Meredith said that community policing is taught in his county. His cities have assault equipment but he has never seen it. Officers need to be trained to use the equipment properly. Chief Sanders said that his department's Humvees are used for transportation.

Senator Thayer thanked Chief Sanders for his service in protecting the innocent people of Kentucky.

Senator Thayer asked Dr. Kraska how much real life experience he had either in the military or with law enforcement. Dr. Kraska indicated that he worked with at least 60 police departments around the country and with departments around the world. Senator Thayer noted that the record should reflect that his question was unanswered.

Chief Sanders said that he has a passion for law enforcement and wants to protect the officers and the community. He urged the legislature not to take away the necessary tools that police departments need. He also urged leadership, training, and accountability.

Dr. Kraska said that he cares about protecting the citizens and is not anti-police. Police serve on the front line in crime and on the front line in governmental legitimacy. He is concerned that police and government lose legitimacy when there are responses involving massive levels of weaponry and when there are no-knock drug raids.

There being no further business, the meeting was adjourned at 11:50 p.m.

## INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

**Minutes of the 4th Meeting of the 2014 Interim**

September 4, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, September 4, 2014, at 9:00 AM, in Catlettsburg, Kentucky at the England Hill School. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Ray S. Jones II, John Schickel, Brandon Smith, Johnny Ray Turner, and Robin L. Webb; Representatives Hubert Collins, Tim Couch, Keith Hall, John Short, Kevin Sinnette, John Will Stacy, Fitz Steele, Jim Stewart III, and Jill York.

Legislative Guests: Representatives Rocky Adkins and Tanya Pullin.

Guests: Rich Hernandez, David Earl, and Linda Callahan-Brown, MPC.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Kelly Blevins.

The minutes of the July 3, 2014 and August 7, 2014 meetings were approved, without objection by voice vote, upon a motion by Representative Stacy and second by Representative Collins.

**Introduction and Overview of MPC**

Mr. Rich Hernandez, General Manager of Marathon Petroleum Company Catlettsburg, Kentucky Refining, stated that Marathon Petroleum Company is a Fortune 25 company. Marathon Petroleum Company has been in business since 1887 in the Midwest and the Gulf Coast. The fourth largest refiner in the United States, in 2013 Marathon Petroleum Company reported revenues and other income of $100.3 billion; after subtracting expenses, the net income for 2013 was only $2.11 billion. One of the ongoing expenses for refineries is the purchase of crude oil, for which Marathon Petroleum spends $60 billion each year.

Marathon Petroleum Company employs approximately 30,000 people and owns 1,490 Speedway convenience stores and 5,300 Marathon Brand retail outlets. The corporate values relating to health and safety, environmental stewardship, honesty and integrity, corporate citizenship, and diversity and inclusion are the foundation of company operations. The company promotes individual civic responsibility, and many of the company's employees participate on several local boards and committees including those for United Way, Kings Daughters Medical Center, Our Lady of Bellefonte Hospital, and the Ashland Community and Technical College. Each year, Marathon Petroleum hosts a local career fair for local eighth graders to promote and disseminate information on possible careers and fields of study.

Marathon Petroleum Company has an integrated network. Marathon owns and operates seven refineries across the United States, as well as biodiesel/ethanol facilities, terminals, pipelines, coastal water terminals, and inland water terminals. Seventy-six percent of crude oil that Marathon Petroleum Company processed was produced in North America. This crude was used to produce gasoline, distillate for various fuels, diesel, kerosene, and asphalt. The United States and Canada are positioned to grow the crude oil and condensate supply, and Marathon Petroleum is well situated to access and move domestic supplies. The company is investing in processing capabilities at its Canton, Ohio and at its Catlettsburg refineries to increase the capacity from the Utica fields.

Marathon Petroleum recently purchased Hess Retail, and this addition of retail outlets will greatly expand Marathon's marketing footprint and improve the company's ability to move product from Florida into New Hampshire. The overall industry contribution to Kentucky's economy is remarkable. Statewide oil and gas provides or supports 86,210 jobs with an average salary for non-gas station oil and natural gas employees of $58,971. This is higher than the average salary of $38,373 across all industries and sectors in Kentucky. The oil and gas industry contributes $3.6 billion to Kentucky income and $7 billion to the Commonwealth's economy.

Marathon Petroleum employs 2,290 workers in Kentucky. Its state assets include one refinery, a marine operations and maintenance center, and 10 product terminals. There is a refining engineering and information technology support office, 594 Marathon Brand retail outlets, and 145 Speedway convenience stores. The company has a long and interesting history in the Commonwealth and places great importance on the workforce.

The Catlettsburg refinery produces 5.6 million gallons of gasoline daily. In terms of refinery outputs, 52 percent is gasoline and other components, 31 percent is distillate and jet fuel, and 17 percent is asphalt and specialty products.

Mr. David Earl, Manager of Operations for Marine Transportation, shared the history of the importance of Marathon Petroleum Company's marine transportation. The fleet includes 16 inland towing vessels, 200 owned and leased barges, two harbor boats, 26 chartered inland vessels, and ten chartered blue water vessels. Marathon products are moved by marine transport to major markets in Cincinnati, Louisville, Pittsburgh, New Orleans, and Texas City. There is a Marine Repair Facility in Catlettsburg. These vessels require ongoing maintenance and care, which means marine transportation plays a role in vessel engineering, mechanical and electrical maintenance, materials and distribution, welding, planning, and barge cleaning. Marathon Petroleum Company's Marine Transportation operation employs 440 people. Of that number, 220 reside in 25 Kentucky counties. River transportation is an environmentally friendly mode of transportation. A typical Marathon eight-barge tow holds 7.14 million gallons of product, which is the equivalent of 368 railcars or 1,152 tank trucks. In 2013, Marathon Petroleum Company transported approximately 3.5 billion gallons of product with no product being released into the environment.

Ms. Linda Callahan-Brown, Government Affairs Manager, Public and State Government Affairs for Marathon Petroleum Company, explained the company's legislative and regulatory issues of interest. Changes in tax reform, transportation funding, energy security and rapidly rising electricity rates, and renewable fuel standard compliance are of a few of the issues the company will be monitoring in future legislation.

In response to a legislator's question regarding reformulated gas and its effect on gas prices, Ms. Callahan-Brown explained that by opting in to reformulated gas, Kentucky opens itself up to other possibilities. To tap into other products, there are stringent requirements that must be met under the United States Environmental Protection Agency (US EPA). Mr. Hernandez explained that there is additional processing that goes into the production of reformulated gas so there would be an added cost to consumers.

Mr. Hernandez responded to a legislator's comments and question regarding Utica shale efforts, explaining that the company's planning is ongoing and evolving and to forecasting how the company will utilize that is difficult. He said that there are many opportunities, and a great deal of work is going on to build and grow the company.

The documents distributed during the meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

### Minutes of the 3rd Meeting of the 2014 Interim

September 24, 2014

**Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, September 24, 2014, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Ernie Harris, Christian McDaniel, R. J. Palmer II, Albert Robinson, Damon Thayer, and Reginald Thomas; Representatives Kevin Bratcher, Dwight Butler, Larry Clark, Will Coursey, Derrick Graham, Mike Harmon, Kenny Imes, James Kay, Martha Jane King, Jimmie Lee, David Meade, Suzanne Miles, Brad Montell, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Bart Rowland, Steven Rudy, Sal Santoro, Diane St. Onge, John Will Stacy, John Tilley, Ken Upchurch, and Jim Wayne.

Guests: Jim Erwin and Cookie Crews, Department of Corrections; Marc Stern, University of Washington; Joe Cowles and Sharron Burton, Personnel Cabinet; Anne Peak, Healthy Reentry Coalition of Kentucky; and Billy Jones Stockton.

LRC Staff: Alisha Miller, Kevin Devlin, Karen Powell, Terrance Sullivan, Greg Woosley, and Peggy Sciantarelli.

**Approval of Minutes**

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

**Kentucky Employees' Health Plan (KEHP)**

Representing the Personnel Cabinet, Joe Cowles, Commissioner, Department of Employee Insurance, and Sharron Burton, Deputy Executive Director, Office of Legal Services, discussed the 2015 plan year and 2014 accomplishments.

Mr. Cowles said that in 2014 KEHP began a three-year strategy to include wellness in the plan. LivingWell and consumer driven health (CDHP) plans were introduced, focusing on consumerism, personal health awareness, and a better understanding of healthcare costs. Over 81 percent of members chose a LivingWell plan. By July 2014, more than 137,000 had completed the Health Assessment required by the LivingWell promise, compared to 34,990 in 2013. Almost 16,000 members received a biometric screening (Vitality Check). CDHP enrollment increased from 12,869 in 2013 to 65,142 in 2014. Dispensing of generic prescription drugs increased from 80 percent to 83 percent during the first three months of utilization. This saved KEHP $10 million during the first six months of 2014. The number of employees electing tobacco use plans increased 28.72 percent due to expansion of the product range, extension of the smoker rate to adult dependents, and explicit reference to the tobacco use surcharge in enrollment literature. KEHP achieved its health awareness and cost transparency goals for 2014.

Vendor contracts for 2015 were completed in August. The vendors for 2015 are Anthem Blue Cross Blue Shield (Anthem), CVS/Caremark, WageWorks, Humana Vitality, and Compass SmartShopper. Anthem has operated in Kentucky for more than 75 years. It is the largest insurance carrier in the state, with 1.3 million members. The Kentucky network includes all hospitals and 96 percent of providers. The national network includes 96 percent of hospitals and 92 percent of providers. The CVS/Caremark network includes more than 67,000 pharmacies nationwide. WageWorks is a leader in administering flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs) and provides COBRA administration services. South Carolina, Florida, and Michigan are WageWorks clients. HumanaVitality has partnered with KEHP for several years to promote wellness. Compass SmartShopper, formerly Compass ChoiceRewards, has been a partner since 2013. More than 2,000 KEHP members have utilized Compass and earned incentives of over $200,000.

The four plan options for 2015 are identical to those offered in 2014. Benefits will remain the same, and premiums will not increase. Premiums decreased slightly for the parent-plus, couple, and family options in the Standard CDHP plan. Members may fulfill the LivingWell Promise by completing either the online health assessment or a Vitality Check between

January 1 and May 1, 2015. Copays for mental health services and allergy injections have been reduced. A maximum out-of-pocket for prescription drugs has been added as a benefit enhancement tied to health care reform. For the first time, unused healthcare FSA funds up to $500 will carry over to the new plan year.

Due to changes in federal law, employees who waive health insurance coverage may choose a Waiver General Purpose HRA (stand-alone HRA) only if they are covered by another group health plan that provides minimum value. Members covered by an individual policy purchased through Kynect or governmental plans such as Tricare, Medicare, or Medicaid are no longer eligible for the stand-alone waiver. They may be eligible for the Waiver Dental/Vision Only HRA or may elect a health plan. Ms. Burton said the federal government classifies the stand-alone HRA as a health plan, but because it does not have certain consumer protections and reforms associated with health plans, the federal government requires it to be coupled with a group health plan. The stand-alone HRA violates the Affordable Care Act prohibition against annual limits because it is capped at $2,100.00. Mr. Cowles said that KEHP has sought guidance on this issue from the U. S. Department of Health and Human Services.

When asked by Representative St. Onge, Ms. Burton said that someone who buys an individual policy directly from an insurance company would not be eligible for the stand-alone HRA unless the person has group coverage, which the IRS defines as employer-sponsored coverage.

Answering Representative Graham, Mr. Cowles said that a plan member whose spouse has group coverage in the private sector would not be precluded from selecting the stand-alone HRA. Representative Graham requested that Mr. Cowles and Ms. Burton be invited to return to the next meeting to allow for more in-depth discussion.

Responding to Representative Rudy, Mr. Cowles said a member whose spouse has group coverage through a federal plan would be eligible for the stand-alone HRA. Tricare plans, which cover the military, are excluded; this exclusion has become controversial.

There being no further questions, Representative Yonts thanked the speakers and asked them to prepare to return to an additional interim meeting.

**Health Care Services in Kentucky's Correctional System**

Jim Erwin, Deputy Commissioner, Office of Adult Institutions, Department of Corrections (DOC), testified about actions taken by DOC in response to the death of inmate James Embry in January 2014. He was accompanied by Ms. Cookie Crews, DOC Health Services administrator.

Representative Yonts read excerpts from the DOC critical incident review report. Mr. Embry, age 57, died from dehydration and starvation after refusing food and drink while an inmate at Kentucky State Penitentiary (KSP). The report concluded that Mr. Embry's death occurred due to the failure of many interacting systems to address a correctable situation and the failure of staff to follow written standing orders and protocols. Representative Yonts commended DOC for a thorough report and diagnosis of the problems that led to Mr. Embry's death.

Representative Yonts said issues of concern include conflicts between nursing staff, institutional staffing levels, staff absences, status of the physician who signed the death report, filling of vacant positions, inmate medical copays, inmate Dorris Kirtley's transfer to Kentucky State Reformatory for medical treatment, hunger strike policy, state regulation relative to contract employees, cost of inmate medical treatment and whether it should be in a nonprison environment, healthcare provider/prisoner ratio, and provisions for medical parole.

Representative Clark, Senator Thomas, and Representative Owens cautioned against the committee dealing with this incident if it is under investigation by the Attorney General. Senator Thomas moved to table the topic, and Representative Bratcher seconded the motion. Representative Yonts said the DOC report is public and that committee staff have said they are not aware of an active investigation. The motion to table was not called for a vote. Mr. Erwin said the critical incident review has been referred to the Attorney General for review and possible investigation of criminal conduct. He is prepared to offer testimony that would not interfere with possible litigation.

Mr. Erwin said that, in 2005, DOC entered into a Memorandum of Agreement with the University of Kentucky to contract for health services with Correct Care Integrated Health (CCIH). In 2011, the university decided to end its subcontracting role, and DOC contracted with a new provider, Correct Care Solutions (CCS), on March 1, 2014. The CCS contract provides for all health care and psychiatric services and staffing for 12 DOC facilities, all specialist subcontracts, all offsite hospital network medical care, all supplies and equipment, utilization management, and the 340B pharmaceutical management system. The contract establishes institution-specific staffing patterns and provides the services of full-time equivalent physicians, advanced registered nurse practitioners (ARNP), psychiatrists, nursing positions, and additional support staff. Specialty services such as mobile x-rays, physical therapy, surgery, and dialysis are subcontracted through CCS. The annual contract budget is $46,000,000. DOC pays an average daily population (ADP) rate of $9.60 per state inmate in DOC facilities, regardless of their need for medical services. The CCS contract provides a plan for filling physician vacancies and incentives to fill them quickly. CCS is required to have a regional office in Kentucky, and it is located in the Oldham County area.

The 2014 budget bill provided for a pilot program to conditionally parole infirm inmates. The program is under review and gives the DOC commissioner authority to certify that a prisoner meets criteria for conditional parole. DOC has 227 medical beds for male inmates at Kentucky State Reformatory; of those, 67 are in its nursing care facility. The Kentucky Institution for Women has 20 medical beds. A medical review of all inmates by DOC determined that 10 male inmates and one female inmate met the criteria. They were recommended for parole, and DOC is trying to place them in nursing care facilities. After release, they become eligible for Medicaid, which is a cost savings for DOC. Sex offenses prevent many inmates from being eligible for the program.

Following the critical incident review of Mr. Embry's death, DOC revised the hunger strike protocol. It is being implemented and includes medical, psychiatric, psychological, and administrative services. Wardens and deputy wardens will be actively involved in monitoring hunger strikes.

DOC terminated the employment of the two psychologists named in the critical incident review because they violated policy and protocol. Both individuals have appealed to the state Personnel Board, and a hearing has been scheduled. The nurse practitioner identified in the report, a CCIH employee who stayed on under the CCS contract, has also been terminated. In accordance with personnel regulations, the DOC Commissioner issued a memorandum to the physician identified in the report, stating that his services were no longer required as a nonmerit employee. DOC has reviewed the critical incident report with all staff psychiatrists, psychologists, security personnel, and unit management staff to emphasize and reinforce policies and protocols. DOC has enhanced the protocol for the treatment team, which is a multidisciplinary committee that reviews problematic inmates. The team meets weekly to review medical and mental health status in individual cases and also interviews inmates prior to the meetings.

DOC contracted with the American Correctional Association for an independent audit of medical operations. The audit, completed in June 2014, is an open document. It reveals no concerns and indicates that protocols and policies are being followed and that staffing is appropriate. The isolation of segregated inmates is a national concern. DOC has been implementing evidence-based programs for segregated inmates to provide incentives and interaction that will benefit the inmate, as well as the safety and security of the institution.

Mr. Erwin agreed to provide a list of specific staff assigned to each DOC institution. Representative Yonts said this information was not included in the CCS contract on file with the LRC Government Contract Review Committee.

Responding to a series of questions from

Representative Yonts, Mr. Erwin said both state and contract employees are assigned to KSP, but he does not know which individuals were scheduled to work on the day in question. Staff absenteeism is not a common problem. DOC chose to contract for medical services because the state pay scale makes it difficult to attract and retain state employees in the medical field. Friction among nursing staff was largely an administrative problem. New policy and protocol for staff is explicit regarding what constitutes a hunger strike and how to address it.

Inmates are not charged copays for psychiatric or psychological evaluations, psychiatric medications, or chronic care medications. For nonchronic care situations, inmates in both the general and segregated populations are charged three dollars per visit, with no additional charge for follow-up. Indigent inmates do not have to pay. Protocol relating to sick call rounds is being monitored and enforced through greater administrative oversight by the warden and deputy warden. Video footage is reviewed at least twice weekly to ensure that inmates under medical care are visibly seen during rounds. Inmates suffering from dementia are assigned to health care facilities, with the exception of the few who are able to function in the general population. Each institution conducts annual training, and contract employees undergo the same training as state employees. CCS is responsible for maintaining medical training and continuing education credits for its employees.

In response to Representative Owens, Mr. Erwin said that prior to the incident written and unwritten protocols were in use for medical treatment and evaluation, laboratory work, and advanced medical intervention. Employees who failed to follow protocol were subject to dismissal.

When asked by Representative Riner, Mr. Erwin said that data to track individual inmates' health status may be available after the new electric health records system is fully implemented. Improving inmate health is a goal of DOC.

Responding to Representative Yonts, Mr. Erwin said alerts have been built into the system to determine whether bar code scanning procedure is being followed. DOC is exceeding its goal to meet periodically with vendors. Central office has the ability to participate remotely in meetings of the multidisciplinary treatment teams to ensure they are appropriately conducted.

Representative Yonts said the committee does not want to impair anyone's rights or due process but may have additional questions later, depending on the Attorney General's action. He thanked Mr. Erwin for his presentation and said it appears that DOC has made significant changes to correct problem areas.

Dr. Marc Stern, an internist physician, correctional health care consultant, and Assistant Affiliate Professor in the School of Public Health, University of Washington, Seattle, Washington, testified about contracting for correctional health care services and inmate hunger strikes. Representative Yonts said Dr. Stern contacted him and offered to lend his expertise after learning of the incident at KSP.

Dr. Stern said he formerly served as Assistant Secretary for Health Care for the Washington Department of Corrections. He evaluates, investigates, and monitors prison and health care systems nationwide for organizations and state and federal agencies. Most of his time is spent dealing with problems that have occurred in prisons and jails. His testimony reflects his personal opinions.

States and municipalities may choose to outsource for health care services to overcome civil service and union barriers to salary or because union contracts may prohibit working in prisons. Outsourcing can provide access to expertise on policies and procedures, negotiation, utilization management, and telemedicine. It can reduce costs through efficiency of operation and improved purchasing power. States or municipalities that operate inefficiently can probably save money by outsourcing to a good contractor. They can save even more by operating efficiently.

Outsourcing also has disadvantages. Costs may increase due to duplication of administrative personnel and services, misalignment of incentives, price hikes by the vendor, or because of the private company's profit margin. There may be less flexibility to adjust to changing healthcare needs. Unexpected termination of the contract by the vendor is a risk, as happened in June 2014 when Corizon Health, Inc., decided to end its May 2013 contract with the Virginia Department of Corrections. Political pressures may lead a state to contract for services to give the impression of smaller government.

Liability avoidance is not a valid reason to subcontract. Some states and municipalities believe they can save on malpractice costs by outsourcing, but vendor contracts usually incorporate liability risk in the contract price.

The need to outsource can be avoided by making salaries competitive, taking legislative action to reduce hospital costs, adopting other states' successful policies, and using selective purchasing. The National Institute of Corrections (NIC) and the National Commission on Correctional Health Care (NCCHC) can provide technical assistance. Partnering with departments of health, public hospital systems, federally qualified health centers, and universities is another helpful avenue.

When outsourcing, the state should be involved in approving the vendor's local and regional leadership. Contracts with a multiple renewal option are preferable over long-term contracts. Requests for Proposal (RFPs) should describe prison medical services in detail to facilitate intelligent, cost effective proposals from vendors. The RFP should focus on desired outcomes rather than a detailed definition of structure and process. Dr. Stern said he is willing to share his personal library of public RFPs, assembled while he was teaching for NIC.

Dr. Stern commended DOC's critical incident review and subsequent action plan. His impression is that there was a poor attitude among KSP staff. This could have been caused by poor hiring practices, poor oversight and supervision, poor organizational structure, understaffing, lack of training, or poor communication between medical and custodial staff. The report suggests that a patient safety culture was lacking. It was shocking to him that an inmate was punished for actions that appeared driven by illness.

Hunger strikes are almost always linked with a demand, usually short term. Data from the International Committee of the Red Cross indicates that hunger strikes usually do not result in death. Most hunger strikers do not want to die but are prepared to die for their cause. The 1991 World Medical Association Declaration of Malta on Hunger Strikers, updated in 2006, is the premier document guiding the conduct of physicians and medical personnel when presented with hunger strikes. It appears that Mr. Embry did not have decision-making capacity and was not a true hunger striker. Instead, he suffered from serious mental illness.

Dr. Stern recommended that DOC physicians, if allowed by law, be able to intervene and force feed someone who is not mentally capable in life or death situations. A process should be in place, ideally without need of a court order. Malta and other research suggests that people who stop eating and drinking completely will likely die within 3-5 days; if given fluids, they could live as long as 75 days. Hunger strikers who have lost 15-20 percent of body weight are in the danger zone. When Mr. Embry died, he had lost about 23 percent of his initial body weight. Refeeding too quickly can also cause death.

Responding to Representative Riner, Dr. Stern said that good nutrition is important to a positive health outcome in the prison population. It can also save taxpayer dollars by preventing the need for pharmaceuticals and medical procedures. His research of one state indicates that the mortality rate for prisoners was lower during incarceration than after release. The prison environment can be protective of health.

There being no further questions, Representative Yonts thanked Dr. Stern for traveling to Kentucky to assist the committee.

**Subcommittee Report**

Senator Bowen, Co-Chair of the Task Force on Elections, Constitutional Amendments and Intergovernmental Affairs, reported on the September 23 meeting. A motion to adopt the report was seconded and passed without objection.

**Public Comment**

Anne Peak, a social services planner at the Kentuckiana Regional Planning and Development Agency (KIPDA) Area Agency on Aging and Independent Living, Louisville, Kentucky, said she chairs the Healthy Reentry Coalition of Kentucky

(HRC). This new organization supports persons reentering the community from the criminal justice system by educating them on healthcare options, preparation for the transition, and what they can do for themselves. She said Medicaid will cover the cost of treating inmates at community hospitals if they are there more than 24 hours. Representative Yonts thanked Ms. Peak and asked her to provide her comments and contact information to committee staff for forwarding to the Department of Corrections.

Billie Jones Stockton said she worked for the Department of Corrections for 16 years. She was a psychological practitioner at Blackburn Correctional Complex and also worked at Northpoint Training Center. Since retiring in 2012, she has been involved in reentry issues and is a member of the Bluegrass Reentry Council. She also represents the Kentucky Council of Churches on the steering committee of the Governor's Task Force for Reentry. She is concerned that at one institution where she worked a prison warden was elevated to the job of health services administrator and was not qualified to make medical decisions. In addition, medical screening of prisoners was usually handled by persons who were not registered nurses (RNs). She feels they often disregarded medical concerns that merited the attention of a physician or RN. She said the last statement on her written comments is incorrect and should be disregarded.

Representative Yonts thanked Ms. Stockton for her testimony and asked her to give her contact information to committee staff.

There being no further business, the meeting was adjourned at 2:57 p.m.

## INTERIM JOINT COMMITTEE ON TRANSPORTATION

### Minutes of the 4th Meeting of the 2014 Interim

September 2, 2014

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 2, 2014, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes of the August 5, 2014 Interim Joint Committee on Transportation meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Jimmy Higdon, Paul Hornback, Ray S. Jones II, Morgan McGarvey, Dorsey Ridley, Albert Robinson, John Schickel, Johnny Ray Turner, and Whitney Westerfield; Representatives Kevin D. Bratcher, Denver Butler, Tim Couch, Jim DeCesare, David Floyd, Keith Hall, Richard Henderson, Toby Herald, Kenny Imes, Jimmie Lee, Charles Miller, Terry Mills, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, John Will Stacy, Fitz Steele, Jim Stewart III, Tommy Turner, and Addia Wuchner.

Guests: From the Kentucky Transportation Cabinet: Rodney Kuhl, Commissioner, Department of Vehicle Regulation; Rick Taylor, Deputy Commissioner, Department of Vehicle Regulation; and Rebecca Goodman, Executive Director, Office of Legal Services; Sharon Clark, Commissioner, Department of Insurance; Chris Johnson, Senior Policy Associate, Uber; James Ondrey, Uber General Manager, Kentucky and Ohio Region; Annabel Chang, National Public Policy Manager, Lyft; Steve Coston, President of Procarent, Yellow Cab Kentucky; Dan Spears, ACT Transportation.

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

**Recognition of John Snyder**

Chairman Collins presented John Snyder, Transportation Committee Staff Administrator, with a citation honoring him for receiving the National Conference of State Legislatures (NCSL) 2014 Legislative Staff Achievement Award.

**Omnibus Revisions to KRS Chapter 281, Regarding Motor Carriers**

Rodney Kuhl, Commissioner, Department of Vehicle Regulation, and Rebecca Goodman, Executive Director, Office of Legal Services, Kentucky Transportation Cabinet, discussed revisions to KRS Chapter 281 regarding motor carriers.

Rebecca Goodman stated that the KRS Chapter 281 omnibus revisions were introduced by Chairman Harris in the 2014 Regular Session as Senate Bill 177 and by Chairman Collins as House Bill 513. The revisions, which the cabinet will request again in the 2015 Regular Session, are intended to increase public safety and decrease barriers to entry in the motor carrier industry. The major proposed change is the elimination of the need for service requirements and the associated hearing requirements. This would extend the changes made for household good movers under 2014 SB 23, consistent with the federal court's ruling in Bruner v. KYTC, to encompass all certificate issued by the cabinet.

The revisions would also establish a certificate process that would mirror the qualifying process found in Senate Bill 23, which includes aspects of insurance, background checks, motor vehicle applications, qualifications and renewals. For example, the proposed revisions would 1) require nationwide fingerprint background checks for all segments of the industry; 2) extend the same standards for employment with respect to criminal convictions as have been extended to household goods carriers by SB 23; 3) require Annual Automotive Service Excellence (ASE) vehicle inspections for all motor carriers; 4) grant concurrent regulatory control over taxicabs, limousines, and disabled persons vehicles (DPVs) to cities (This is currently in place for taxicabs only); 5) adopt the United States Department of Transportation's minimum amounts of insurance coverage required of interstate carriers and applies it to intrastate carriers of property and larger passenger vehicles. The cabinet intends to tier the requirements by seating capacity; 6) reduce the minimum fine amount for operating without authority from $2,000 per violation to $500 per violation; and 7) codify requirements for Transportation Network Companies (TNCs).

In response to a question by Chairman Collins, Ms. Goodman stated the revisions of KRS Chapter 281 will amend the statutory provisions and then the cabinet will amend the existing administrative regulations and file those with the Administrative Regulations Committee. The cabinet intends to file an emergency regulation for regulation of the TNCs, which will be effective when filed, but the hope is to get the KRS 281 revisions passed in the upcoming Regular Session.

In response to a series of questions by Representative DeCesare, Ms. Goodman stated the regulation on TNCs should be promulgated by the beginning of October 2014, and that an emergency regulation is effective when filed. Rick Taylor, Deputy Commissioner, Department of Vehicle Regulation, stated the regulation would address the TNCs and would also address regulations that need to be changed because of SB 23. KRS Chapter 281 already issues permits under the definition of a motor carrier for anyone who owns, controls, operates, manages, or leases a vehicle that is used for hire, therefore it is already broad and there will be no need to redo any regulations incorporating TNCs if the omnibus revisions to Chapter 281 are passed.

Chairman Harris asked if it was incorrect to say the proposed revisions to KRS Chapter 281 let the free market dictate who is in and out. Ms. Goodman stated that was correct.

**TNCs and Ride-Sharing Applications such as Uber and Lyft**

Commissioner Kuhl stated Transportation Network Companies (TNCs) are companies that use smartphone applications to connect passengers with drivers who use their personal vehicles to provide for hire transportation services. Examples of TNCs are Uber and Lyft.

The TNC model begins when a person downloads the application to a smartphone and provides the company with information, including credit card information that is stored for paying fares. A passenger in search of a ride sends a request via the app that searches for a driver in the area that is available. The driver then accepts the request and travels to pick up the passenger to deliver them to the destination. No cash is exchanged; the passenger approves the ride and the fare is charged to the passenger's credit card.

Commissioner Kuhl stated the department has the statutory authority to regulate TNCs under the KRS 281.011(1) definition of a motor carrier as "… any person who owns, controls, operates, manages, or leases … any motor vehicle for the transportation of persons or property for hire." The cabinets concerns regarding TNCs include insurance coverage, both personal and commercial, vehicle inspections, background checks on the drivers, driver history records, and the impact on regulated for hire motor carriers such as taxicabs and limousines.

Commissioner Kuhl added that KYTC organized two meetings this summer with regulatory agencies such as the Department of Insurance, the Attorney General's Office, Lexington Fayette Urban County Government, Louisville Metro Government, Department of Worker's Claims, the Louisville Regional Airport Authority, and the Legislative Research Commission staff regarding TNC operations. KYTC met with Uber in June to discuss its business model, and the other regulatory agencies subsequently met with Uber. Commissioner Kuhl stated KYTC is actively in the process of arranging a meeting with Lyft.

In response to questions from Chairman Collins, Commissioner Kuhl stated that TNCs will make application for a certificate to operate in the Commonwealth. Before a person is accepted as an Uber or Lyft driver, there will be a background check of the driver by Uber or Lyft through a party that KYTC will approve to conduct the check.

In response to a question by Representative Steele, Commissioner Kuhl stated Uber and Lyft do not accept cash as a form of payment. The fare is paid by the credit card registered in the application at the time the ride is requested, and an electronic receipt is sent to the customer.

In response to a question by Senator Ridley, Commissioner Kuhl stated once the ride is accepted by the driver there are two different types of insurances that are in force. One is gap insurance, which provides coverage from when the ride is accepted until the time the driver picks up the passenger. Once the passenger is picked up, there is a $1 million limit per incident commercial policy that goes into effect from that point until the passenger is delivered.

Senator Ridley raised the issue of whether this insurance method creates an unlevel playing field for the cost that is incurred or available to a passenger of a motor carrier, taxicab, or limousine. Inspections of the vehicle are extremely important.

In response to a question by Representative Butler, Commissioner Kuhl stated some public safety concerns surrounding TNC models were not knowing how the business model worked, how the background checks were done, what kind of insurance they had, what kind of mechanical inspections the vehicle underwent, therefore the meeting with each company was a necessity in order to regulate them on the same level as taxicab companies.

In response to a question by Representative Lee, Ms. Goodman stated other states that have similar regulations are Minnesota, Colorado, and California. Detroit, Michigan has an agreement with Uber. The cabinet has looked at how this issue is regulated in other jurisdictions. There is nothing from any of those jurisdictions that looks much different from what Kentucky already requires from taxi companies.

Chairman Harris stated that, after hearing testimony at legislative conferences this summer concerning TNCs, he arranged for this meeting to be an informative look into TNCs and all aspects and regulations that go along with them for the committee to be prepared for future bills, regulations, and issues. After he returned from the conferences, he met with Commissioner Kuhl and members of the cabinet to address the changing technology that is affecting the entire industry. Chairman Harris suggested letting the industry sort issues out such as insurance, safety, and background investigations and then observe the outcome of the industry findings. Chairman Harris and Chairman Collins met with members of the cabinet staff and requested that the cabinet ensure they included every entity and agency that could be affected by the transitional period of TNCs and the cabinet has done that.

Chris Johnson, Senior Policy Associate, Uber and James Ondrey, Uber General Manager, Kentucky and Ohio Region, discussed details of Uber's business model. Mr. Ondrey stated Uber is a technology company with a mobile platform that connects riders with available drivers with the push of a button on a smartphone. There is a variety of transportation options to choose from within the application in different cities, including Uber Black, which connects the rider to a licensed limousine driver, Uber Taxi, which connects the rider to a taxi that is partnered with the Uber system, and Uber X which is the low cost option that connects the riders to private drivers who use their own personal vehicles. Currently, Uber X is the only option offered in Kentucky, having launched in both Louisville and Lexington in early 2014. Uber X is now available in nearly 100 United States and over 30 European and Asian markets. Uber hopes to extend to more Kentucky cities soon. The drivers are considered independent contractors and receive 1099 forms to pay taxes on the income that they have earned throughout the year.

Mr. Ondrey stated that, unlike traditional taxicab services, Uber X is a ride-sharing service where independent, part-time drivers have the option to work only a few hours a week. Unlike taxis, drivers for Uber X do not pick up passengers from street hails or taxi stands. Each trip is prearranged through the smartphone application.

Mr. Ondrey stated that the Uber application is free to download to any smartphone. To utilize Uber, a rider can enter different methods of payment such as any credit card, Google Wallet, or PayPal. When the rider agrees to the terms and conditions, the Uber network is available. Anytime a rider needs to be picked up, the same Uber application can work in all cities around the world in which Uber is located.

Mr. Ondrey stated the GPS system in the smartphone will locate the rider for pickup, or the rider has the option to type the address absent GPS. After the location is pinpointed, the rider will then see all of the available drivers near the pickup location. The Uber application will show the rider the closest driver and give an estimated time of arrival. The application will then send a signal to the closest driver, who can accept the request and proceed to pick up the rider. Once the match is made, the rider receives a picture of the driver, the make and model of the car, the license plate number of the car, and the phone number of the driver. The rider can watch in real time on the smartphone as the driver approaches the meeting destination.

Uber takes steps to ensure the safety of the drivers and riders. Feedback is requested by riders and drivers after every ride is given. Uber conducts reviews of the feedback, which allows quality to be maintained at an exemplary level. After the ride has been completed, a detailed receipt is sent to the rider's email address. If there is an issue with the receipt or the charge, the rider may reply to the email, and an Uber representative will handle the issue.

Mr. Ondrey stated cities are embracing ride sharing applications because there are fewer vehicles on the road, helping ease traffic and environmental strains of consumers operating their own vehicle. The ride sharing applications are also helpful in significantly reducing DUI rates and impaired driving offenses. Uber also makes cities more tourist and business friendly because of the ease of transportation to explore favorite destinations or meeting places.

Mr. Ondrey stated safety will always be a top priority with Uber. Uber drivers go through a rigorous vetting process that includes background checks and insurance requirements that are more comprehensive than the current requirements for taxis in Kentucky. All of the potential drivers are screened against county courthouse records going back seven years for every county of residence, federal courthouse records going back seven years, and multi-state criminal databases going back seven years. For comparison in Louisville and Lexington, taxi requirement background checks are only required to go back five years. In Louisville, any hit and run, DUI, or reckless driving offense that did not cause injury or death only goes back three years. Uber conducts a national sex offender registry screen, a lifetime social security trace, and a motor vehicle history report going back seven years.

Mr. Ondrey stated all trips on Uber X are covered by a $1 million primary commercial insurance policy. The policy provides up to $1 million in coverage for each and every incident that occurs from the moment a driver has accepted a trip and is in route to pick up a passenger, or is transporting a passenger to the destination. The $1 million insurance coverage is ten times the coverage amount required by taxi services in the city of Louisville and twenty times the coverage amount required in KRS 281.655 for taxis of $50,000 for total body injury.

Mr. Ondrey stated Uber also holds a separate contingent insurance policy with $50,000 per individual and $100,000 aggregate limits, which is two times the Kentucky taxi insurance requirement, for the period of time in between trips, and when the driver has the Uber application on and is waiting to accept a fare but is not yet engaged in the activity.

Mr. Ondrey stated that the insurance policy covers bodily injury caused by uninsured or underinsured motorists up to $1 million per incident. This type of coverage is not required by taxi services in Kentucky. Uber has personal injury protection insurance for the driver for $10,000 per incident.

Mr. Ondrey stated Uber recently met with the Kentucky Transportation Cabinet, the Kentucky Department of Insurance, and the Department of Worker's Claims to educate each on Uber's business model. Uber provided copies of insurance policies to the Department of Insurance and met with the department to discuss those policies.

In response to a question by Chairman Harris concerning the organizational structure between Uber technologies and Raiser LLC, Mr. Ondrey stated Raiser is a 100 percent wholly owned subsidiary of Uber. Uber X is the ride-sharing portion of Uber, Raiser handles the operations, and the contracts that are signed by the drivers under Uber X are with Raiser, LLC.

Annabel Chang, National Public Policy Manager, Lyft, and Diana Dellamere, National Public Policy Manager, Lyft, discussed Lyft's business model. Ms. Chang stated Lyft, which was launched in Lexington and Louisville on April 24, 2014, has the same background screening and insurance requirement policies as Uber Technologies. Almost everything in Lyft's business model is similar to Uber X.

Ms. Chang stated Lyft met with Louisville Metro Council and will be meeting with Lexington Urban County Government and with the Department of Insurance and KYTC to share the Lyft business model. Lyft would like to evaluate the emergency regulations after they are drafted. Lyft's goal is to work towards a long term solution. The company welcomes regulation, with the hope that it acknowledges the unique Lyft model that entails personal drivers with personal cars. Ms. Chang said there is no fleet with Lyft. There has been incredible change as Lyft just launched in 2012 but is evolving quickly.

Ms. Chang stated that Colorado was the first state to pass state legislation recognizing the TNC model. California and Virginia entered into an operating agreement with Lyft and Uber. Both of the operating agreements essentially sanctioned what Lyft currently offers concerning background checks, vehicle checks, and current insurance requirements.

The Lyft business model hinges on safety. The passenger must trust the safety of the vehicle and the driver, and the driver must trust that the passenger is safe. About one-third of Lyft's drivers are women, which is very different from the existing taxi industry. About one-half of the passengers that Lyft picks up are women.

Lyft's criminal background checks disqualify anyone with a conviction or arrest for a violent offense, anything related to theft or property damage, violation of probation, or possession of drugs.

As for drivers' driving records, if a driver has had more than two moving violations in the previous three years, the driver is not able to drive for Lyft. Based on all of the screening checks and the screening process, Ms. Chang stated that approximately 95 percent of all applicants are screened out and not allowed to drive under the Lyft platform.

Ms. Chang stated Lyft conducts a 19-point vehicle inspection of the driver's vehicle. Lyft conducts mentor rides, requiring every potential driver to ride with a Lyft experienced driver (mentor). On the mentor ride, questions are asked and a personality check is conducted to ensure that future passengers may be comfortable riding in a car with that person.

Similar to Uber, Lyft has a five-star rating system. After each ride, there is real-time feedback. If a rider gives feedback that is less than 100 percent satisfactory, Lyft prompts the rider to answer why the ride was less than satisfactory. The driver will get the feedback, as will Lyft. If there is anything related to safety that is reported as less than satisfactory, such as the involvement of drugs or alcohol, the Lyft driver is taken off the Lyft platform immediately and will not be allowed to give any more rides pending an investigation. If a Lyft driver falls below 4.7 stars over 100 rides, the driver is no longer allowed to drive under Lyft.

Ms. Chang stated Lyft has the type and same amount of insurance coverage as Uber, and both companies have the same insurer. Lyft is trying to break ground in the personal auto insurance industry. Lyft has met with Metlife and will be announcing a new product line in the near future that would essentially be personal auto insurance with an endorsement or rider for Lyft drivers. She hopes the development of this coverage will incentivize other insurers to offer similar coverage. Lyft is an additional layer of transportation, offering consumers other options, and is not a replacement for other modes of transportation such as taxis. Seattle studied taxi cab services. The year that the transportation network companies launched, taxis made more revenue than ever before. The reason is because people were more willing to leave their cars behind due to more options. Consumers knew they could get a ride into town and they could get a taxi back home or vice versa. Drunk driving also decreased. Ms. Chang stated Lyft's model is based on the casual driver, as most Lyft drivers work less than 15 hours a week. Lyft's goal is to provide a transportation mode that works, that makes sense, and is safe.

Representative Riggs raised a concern that, while the TNCs consider their drivers to be independent contractors rather than employees and 1099s are issued, the drivers may not be independent contractors. Instead, that determination is up to the courts and the judge when there is a lawsuit. He asked if the companies had been challenged on this issue anywhere in the country. Mr. Ondrey stated there have been no cases regarding Uber. Uber's legal team advised that the contracts complied with case law. Ms. Chang stated that, in anticipation of questions arising on the independent contractor issue, Lyft had partnered with the Freelancers Union to form a co-op to which drivers can pay dues, which would in turn grant them access to medical and other benefits.

In response to a question by Chairman Collins concerning layoff of drivers and unemployment insurance, Mr. Ondrey stated the drivers are viewed as independent contractors, not employees, therefore unemployment insurance would not be paid if the driver is no longer working for the company.

In response to a question by Representative Mills as to why there is not a guest option on either the Uber app or the Lyft app, Ms. Dellamere stated part of that has to do with trust and safety issues as the model is not created for anonymous one or two time use because that takes away the accountability, trust and safety that Lyft relies on for the service to be provided safely and comfortably.

In response to a question by Senator Westerfield concerning a study that he recently was made aware of involving Uber drivers using burner cell phones to tie up Lyft drivers on fake pickups only to cancel them, Mr. Ondrey responded that was not correct and he has not been made aware of any instance where that has occurred. Senator Westerfield reiterated his concern for having a fair and free market.

In response to a question by Representative Floyd, Mr. Ondrey stated there are terms and agreements on the application that the user must agree to before use of the Uber platform.

In response to a question by Senator Ridley concerning the calculation of fares, Mr. Ondrey stated for Uber, the fares are based on a time and distance charge so the driver who is completing the fare has a smartphone for which the Uber driver app runs. It collects GPS information based on the time and distance of that ride. The receipt that the rider is given will break down the total fare for the rider. Ms. Chang added that, under Lyft, the passenger pays by credit card, which goes to a third party processor, who splits that amount. Lyft receives up to 20 percent of the commission and the driver receives 80 percent commission. Lyft's fares are based on time and distance.

In response to a question by Senator Ridley, Mr. Ondrey stated it is possible for a driver to become a driver for both Lyft and Uber.

In response to a question by Senator McGarvey if a driver were en route to pick up a passenger and were to hit and kill a child, representatives from Uber and Lyft stated the primary $1 million insurance policy would be in effect for that incident.

Steve Coston, President of Procarent, Yellow Cab Kentucky, discussed the taxicab industry's concerns with TNC operations. News of the proposed revisions of KRS Chapter 281 and information that was shared from Uber and Lyft has been informative. Yellow Cab would like to be a part of the ongoing discussions concerning all of the platforms.

Yellow Cab is a locally operated, family-owned business operated out of Louisville, providing career opportunities for over 500 employees, including drivers, mechanics, cashiers, and general administration. It is concerned with the need to regulate the current TNC operations that are operating without any regulation. Yellow Cab is not in favor of more regulations or excluding any company from providing a service to Kentucky citizens, but rather wants the service to be provided safely. The TNCs are great business models, but the safety of their operations must be proven. Yellow Cab is concerned that Uber and Lyft have been operating for a period of time, but their insurance has not been in place for very long, and thus there are big insurance gaps.

Mr. Coston stated a person that uses Yellow Cab can text, call for a ride, or download the Yellow Cab application on a smartphone similar to Uber and Lyft. Yellow Cab also offers payment options of credit cards or cash.

Yellow Cab has previously faced significant insurance gaps as it has a percentage of drivers who operate their own vehicles and are subcontractors. Because these drivers operate using their own vehicle, they could be driving their vehicle for personal use or could be driving for a fare. Yellow Cab insures those drivers for commercial insurance. If the drivers are leasing the vehicle from Yellow Cab, they are insured around the clock.

Mr. Coston expressed concern if an Uber or Lyft driver were to take cash for a quick ride against company policy as to what insurance takes effect if an accident were to occur, reiterating insurance loopholes that still need to be addressed. He said he wanted to ensure all entities are able to operate safely and successfully and not put the citizens of Kentucky at risk.

In response to a question by Senator McGarvey, Mr. Coston stated Yellow Cab has independent contractors and employees.

Representative Lee expressed his wish to have the insurance commissioner involved in the administrative regulation process concerning TNCs when the emergency regulations and regular regulations are drafted and placed before the Administrative Regulations Committee.

Ms. Goodman said the Department of Insurance has been included in meetings with the involved agencies to share information and concerns, as well as the Department for Workers' Claims, so the issues about the independent contractors versus the employees, and the insurance requirements are things that they are being addressed. The cabinet intends to provide copies of the emergency regulation, as has been requested by Yellow Cab and others, prior to its filing. There will be enough time between the drafting of the regulation and its filing to entertain comments, questions, and criticisms.

Sharon Clark, Commissioner, Department of Insurance, stated the department has been working closely with the other agencies and will not need to have an emergency regulation, but it will continue to work with all parties on all aspects of the regulations. Uber and Lyft have filed all of their policies with the department, and the policies already meet the statutory requirements. Representative Lee requested Commissioner Clark's presence at the Administrative Regulations Committee meeting in October, and Chairman Harris concurred.

Senator McGarvey urged the cabinet to review the wavier that must be signed before the driver enters the vehicle, specifically questioning the possibility of an arbitration clause.

Chairman Collins urged the cabinet to allow Yellow Cab to be involved in the regulation process. Ms. Goodman stated the cabinet would welcome Yellow Cab's participation.

Dan Spears, owner of ACT Transportation which operates under Yellow Cab in Bowling Green, Kentucky, and owner of several other companies, voiced concerns about the proposed revisions of KRS Chapter 281, the TNC business model, and the fact that TNCs have already been operating in the Commonwealth without the proper authority.

There being no further business, Chairman Harris adjourned the meeting at 3:03 P.M.

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

### Minutes of the 3rd Meeting of the 2014 Interim

September 11, 2014

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, September 11, 2014, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Carroll Gibson, Ernie Harris, Dennis Parrett, Jerry P. Rhoads, Albert Robinson, Reginald Thomas, Whitney Westerfield, and Mike Wilson; Representatives Robert Benvenuti III, Regina Bunch, Tom Burch, Denver Butler, Dwight D. Butler, Tim Couch, Ron Crimm, Robert R. Damron, Myron Dossett, David Floyd, Kenny Imes, Martha Jane King, Jimmie Lee, David Meade, Terry Mills, Tim Moore, Tom Riner, Rita Smart, John Tilley, and Russell Webber.

Guests: Lieutenant Colonel (Ret.) Tina Gay Riddle, Lieutenant Commander USNR-Ret. Margaret Plattner, Deputy Commissioner, and SFC (Ret.) Angela Worley, Women Veterans Coordinator, Kentucky Department of Veterans Affairs; Miki King, Governor's Advisory Board for Veterans Affairs; Colonel John Mills, JAG, Headquarters and Charles Lay, SAPR, Kentucky Army National Guard; Colonel Tim Cocanougher, Special Investigator, National Guard Bureau; Dr. Stephanie Mayfield Gibson, Commissioner, Department of Public Health; Joel Neaveill, Chief of Staff, Governor's Office of Agricultural Policy; Carlos Pugh and Bobbie Smith, JECVO.

LRC Staff: Erica Warren, Kristopher Shera, Jessica Causey, and Rhonda Schierer.

Chair Pullin called for a motion to adopt the August 2014 meeting minutes. A motion and second were made, and the minutes were adopted.

Chair Pullin asked members to have a moment of silence in memory of those who lost their lives on September 11, 2001.

Chair Pullin called on Greg Higdon, President and CEO of the Kentucky Association of Manufacturers (KAM), to give a brief announcement. Mr. Higdon stated that KAM is celebrating manufacturing in Kentucky the entire month of October. On October 16, KAM is having a Military to Manufacturing event at the Boone Campus of Gateway Community & Technical College in Florence, Kentucky. Commissioner Heather French Henry and Maj. Gen. (Ret.) D. Allen Youngman are the two guest speakers for the event. A pamphlet with a list of all events and information is part of this official record.

**Services in Kentucky for Women Veterans**

Lt. Col. (Ret.) Riddle discussed the need for women to have mentoring for women in the military and female veterans. There is more and more diversity within the guard, and more women and minorities should have a place in the military. Many women in the military experience sexual harassment and military sexual trauma, making mentoring relationships critical.

There are many issues facing homeless female veterans, and there are fewer places that cater just to women who are homeless. Most often homeless women veterans are unaware of places where they can seek shelter. A majority of the veterans in the existing facilities are men who may have alcoholism or drug addiction issues. This creates an intimidating and unsafe place for the women. There is also a need to make women aware of their educational benefits and to provide more job fairs, small business workshops, and childcare for them while on drill weekends.

In response to a question from Representative Floyd, Lt. Col. (Ret.) Riddle stated that there are several facilities for homeless veterans in Louisville, however the locks are insufficient and the facilities are not specifically designed for women.

Deputy Commissioner Plattner stated that there are about 2.5 million women veterans nationally. They have had multiple deployments, blurring combat and non-combat operations, which suggest that their needs may differ from women veterans of previous eras. The average age of female veterans is 49 and the average age of male veterans is 60. A higher percentage of female veterans than non-veteran women have a bachelor's degree or higher, and about 38 percent of female veterans work for local, state, or federal government, compared to 18 percent of non-veteran women.

Ms. Plattner stated that the VA is improving services to make sure women who are eligible for VA healthcare can access services for their needs. There has been expanded research on the impacts of trauma, combat exposure, mental health outcomes of civil reintegration, and overall healthcare needs for women. The women's VA call center for benefits, education, and healthcare is 1-855-VAWOMEN. A handout was provided in members folders and is part of the official record.

In response to a question from Representative Moore, Ms. Plattner stated that there are 248 homeless women veterans on record in the state.

In response to a question from Co-Chair Higdon, Ms. Plattner stated that KDVA hopes to have a full-time position for a women's veteran coordinator by 2016, but current budget levels prohibit a full-time position at this time.

Ms. Worley stated that there are 33,000 Kentucky women veterans; KDVA only has 1,900 claims. The reason for the low number of claims is that women veterans often do not define themselves as veterans because some think they had to be in combat to be eligible for any type of service. Ms. Worley stated that she only works part-time as a women veteran's coordinator and expressed the need for a full-time position to meet the needs of all of women veterans.

In response to a question from Chair Pullin, Ms. Worley stated that she spends approximately 15 percent of her job time working with women veterans. The veteran women in rural areas have no representation.

**Revisions to the KY Code of Military Justice**

Col. John Mills and Col. Tim Cocanougher discussed revisions to the Kentucky Code of Military Justice. Col. Mills stated that the new code has common law offenses but gives much greater flexibility and covers newer offenses such as cyber stalking and harassment through technology. Previous penalties given were as little as six months, and those penalties now are up to ten years, which gives a greater level of deterrence. The revised code allows the Kentucky National Guard to take personnel action for inappropriate conduct off duty as well as on duty. Having additional victim advocates has improved awareness in the new code, and victims trust it enough to come forward.

In response to a question from Representative Moore, Col. Cocanougher stated that there is a training period and video of the revised code for all new members of the National Guard. Existing members are all briefed and given the new set of rules. There are annual briefings for all military. The new code has made members of the Guard responsible to Guard standards 24-7.

In response to a question from Senator Parrett, Col. Cocanougher stated that there are six sexual assault advocates and 60 trained victim advocates. There are 70 armories across the state; it would be beneficial to have 70 victim advocates, which would allow one victim advocate for each armory.

**Ebola and Kentucky Tobacco Plants Used in Pharmaceutical Research and Treatments**

Dr. Gibson gave a PowerPoint presentation on the Ebola virus disease. The Ebola virus was first recognized in 1976 near the Ebola River Valley, which is now the Democratic Republic of Congo. Outbreaks typically occur in tropical regions of Sub-Saharan Africa. Mortality rates of these outbreaks range from 25 percent to 90 percent. The 2014 outbreak in West Africa is the largest to date. There are five subtypes of the Ebola virus. The ongoing outbreak in West Africa is caused by the Zaire Ebola Virus. The Zaire and Sudan strains cause the most severe illness and have higher case-fatality rates. The 2014 West Africa Ebola Virus outbreak has confirmed 3,707 cases and 1,848 deaths. The count is a challenge as remote areas have not made it into the count. Transmission of the virus occurs through direct contact with infected body fluids. The natural reservoir is most likely fruit bats. The virus typically runs its course in 14-21 days. There are no specific FDA-approved vaccines or antiviral or other medications for treatment of the Ebola virus. Experimental treatments have been proven effective in animals but have not been studied in humans. ZMapp is a preparation of antibodies manufactured in tobacco plants. It has been used as an experimental treatment, but it is too early to know if it is effective. Drug manufacturers have begun safety and efficacy studies. There are no cases of the virus in Kentucky. Four healthcare professionals who were diagnosed with Ebola in Africa have been brought back to the U.S. for care.

There is currently a very low risk of Ebola in the United States. Airline passengers are screened for symptoms before leaving countries with ongoing outbreaks of the virus. State health departments and partners are working at U.S. ports of entry to prevent introduction of the virus into the population. U.S. military will be deployed to provide equipment and other assistance to contain the outbreak. The Kentucky Department for Public Health (KDPH) is using an approach similar to its established methods of responding to other emerging infectious diseases to prevent an outbreak. These methods include training and providing information to local health departments, healthcare providers, and hospitals on how to report potential cases, working with local healthcare facilities, colleges and universities to quickly identify and assess persons with a travel history to affected areas, sending public health advisories to partners regarding voluntary home quarantine, infection control, and Ebola risk assessment which can be found on the KDPH health alerts page, and preparing a tabletop exercise scenario that hospitals and healthcare facilities can use to test their plans and responses. The PowerPoint presentation on the Ebola virus is a part of this official record.

In response to a question from Chair Pullin, Dr. Gibson stated that Kentucky's healthcare facilities and hospitals can examine individuals who feel they have symptoms or who could be infected.

Mr. Neaveill gave a brief overview on the use of tobacco in the research and production of pharmaceuticals and the role that the Governor's Office of Agricultural Policy has played in funding startups involved in that research, such as Kentucky Bio Processing, whose product has been part of the experimental Ebola treatment. He discussed diversification efforts for tobacco to develop proteins for treatment of cancer and other illnesses. Kentucky Bio Processing extrapolates proteins from tobacco plants to create vaccines and antiviral medication. This could be a great potential for tobacco farmers; however, these specific tobacco plants must be grown indoors to survive.

**Other Business**

Co-Chair Higdon announced that the next committee meeting will be at the Robley Rex Louisville VA Medical Center in Louisville on October 9, 2014.

There being no further business, the meeting was adjourned.

## CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE
### Minutes

September 16, 2014

**Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee was held on Tuesday, September 16, 2014, at 1:00 p.m., in Room 169 of the Capitol Annex. Representative Kevin Sinnette, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Chris Girdler, Bob Leeper, and Christian McDaniel; Representatives Robert Damron, Steven Rudy, Kevin Sinnette, and Jim

Wayne.

Guests Testifying Before the Committee: Mr. Steve Byars, Assistant Vice President for Government Relations, University of Kentucky (UK); Ms. Elizabeth Baker, Director of Planning, UK; Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. John Hicks, Deputy State Budget Director; Ms. Brandi Armstrong, Financial Analyst, Kentucky Infrastructure Authority; and Mr. Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Josh Nacey, Katherine Halloran, and Angela Offerman.

**Approval of Minutes**

Representative Wayne moved to approve the minutes of the August 19, 2014, meeting. The motion was seconded by Senator Leeper and approved by voice vote.

**Information Items**

Mr. Josh Nacey, Committee Staff Administrator, presented four information items. The first item included notices of advertisement for leased space from the Finance and Administration Cabinet for the Department of Workforce Investment in Daviess County, Department of Corrections in Fayette County, and Department of Public Advocacy in Franklin County.

The second item was an update on the average rental rate for medical lease space in Jefferson County.

The third item was an announcement that the committee's webpage was updated to ensure consistency with other statutory committee webpage's, streamline content, and improve the distribution of meeting materials.

The fourth item was an article regarding the Louisville Arena Authority receiving $1,400,000 from Yum! Center profits.

**Project Reports from the University of Kentucky (UK)**

Mr. Steve Byars, Assistant Vice President for Government Relations, (UK), introduced Ms. Mary Vosevich, Vice President for Facilities Management, UK, to the committee.

Ms. Elizabeth Baker, Director of Planning, UK, reported the purchase of research and medical equipment and a scope increase for a budgeted capital project. The first item purchased was a Hydrocracking Reactor used to create paraffin wax which makes diesel. The cost of the reactor was $205,000 and funded from a U.S. Department of Energy grant. No action was required.

The second item purchased was a Water-Gas Shift Reactor used to shift syngas to a certain hydrogen/carbon monoxide ratio. The cost of the reactor was $205,000 and funded from a U.S. Department of Energy grant. No action was required.

The third item was the purchase of technology equipment for the Campus Cyberinfrastructure - Network Infrastructure and Engineering Program, Advancing Science through Next Generation Software-Defined Networks project. The cost of the equipment was $656,371 and funded from a National Science Foundation grant. No action was required.

The fourth item was the purchase of a Post-Anesthesia Care Unit Central Monitoring System to enable staff to have centralized comprehensive patient information. The cost of the system was $323,813 and paid for from restricted funds. No action was required.

The fifth item was the purchase of a pediatric ambulance to service the A.B. Chandler Medical Center and Hospital. The cost of the ambulance was $224,200 and paid from restricted funds. No action was required.

The sixth item was a scope increase under 15 percent for the budgeted capital project, Construct/Expand/Renovate Ambulatory Care Facility – UK, to renovate space at the Kentucky Clinic to allow the relocation of Pediatric Hematology/Oncology services. The $1,400,000 increase was from private funds raised by DanceBlue to benefit the Kentucky Children's Hospital Pediatric Hematology/Oncology Clinic. The authorization increased the total project scope to $21,400,000.

Senator Leeper made a motion to approve the scope increase. The motion was seconded by Representative Damron and approved by roll call vote.

**Lease Reports from the Finance and Administration Cabinet**

Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet, presented three items. The first item was for a lease modification for the Cabinet for Health and Family Services in Franklin County reducing the space by six square feet (sq ft). The modified lease was for 20,559 sq ft for office space at $10 per sq ft for an annual cost of $205,590. The lease will expire June 30, 2015.

Representative Wayne made a motion to approve the lease modification. The motion was seconded by Representative Damron and approved by roll call vote.

The second item was for an amortization of leasehold improvements for the Energy and Environment Cabinet in Franklin County for renovations to enclose the Commissioner's office, remove a demising wall to enlarge a support area, convert a former smoking room to a break area, enclose a conference area, and new floor coverings. Two estimates were obtained and the cabinet recommended accepting the lowest bid of $15,890 from Warnick Construction. The cost will be amortized through the term of the lease, which will expire June 30, 2016. No action was required.

The third item was for an amortization of leasehold improvements for the Department of Agriculture Offices of Agriculture Marketing and Product Promotion and State Veterinarian for significant structural renovations. The department was informed that the construction plans provided by the lessor are required to include the seal and signature of a Kentucky licensed architect and engineer.

The lessor, Century Investment Group LLC, provided an estimate from Burnworth Design in the amount of $4,400 to accommodate the requirement. The cost will be amortized through the term of the lease, which will expire June 30, 2019. No action was required.

**Project Reports from the Finance and Administration Cabinet**

Mr. John Hicks, Deputy State Budget Director, presented four items. The first item was a new unbudgeted capital project from the Department of Military Affairs. The Expand Water Service project at the Wendell H. Ford Training Center will connect the center to a recently upgraded water treatment facility in Central City. The $750,000 capital project was 100 percent federally funded by a Department of Defense grant.

Senator Leeper made a motion to approve the project. The motion was seconded by Representative Rudy and approved by roll call vote.

The second item was a new unbudgeted capital project from the Department of Military Affairs. The Truck Wash Facility at Bluegrass Station project will construct a freestanding, pre-engineered metal building to be used for washing large trucks with hand-held sprayers. The project appropriation was $698,730 and was 50 percent federally funded by the Department of Defense's Special Operations Forces Support Activity. The remaining 50 percent of funding was from agency-restricted funds.

Representative Rudy made a motion to approve the project. The motion was seconded by Senator Leeper and approved by roll call vote with one "pass" vote.

The third item was a new unbudgeted capital project from the Department of Military Affairs. The National Guard Memorial project at the Boone National Guard Center entrance will honor those who have served in the modern Kentucky National Guard.

The project cost was $1,397,700. Of that total, $1,097,700 was from private funds and $300,000 from the General Fund. The Kentucky National Guard Memorial Fund, Inc., a nonprofit corporation, agreed to manage the project and certified the private funds were in-hand.

Senator McDaniel made a motion to approve the project. The motion was seconded by Representative Damron and approved by roll call vote.

The fourth item was a report of a pool project in excess of $600,000. The Department of Parks reported a maintenance pool project allocation for the Cumberland Falls Terrace-Dining Room Roof project. The project will replace the roof over the dining room at the Cumberland Falls State Resort Park Lodge. The project appropriation was $750,000 and was funded from three Department of Parks maintenance pools.

In response to questions from Representative Wayne, Mr. Hicks said the Department of Parks monitors the maintenance needs of all the facilities and $4,000,000 is budgeted annually. He also said $5,500,000 has been budgeted to upgrade guest accommodations. No action was required.

**Kentucky Infrastructure Authority (KIA) Loan**

Ms. Brandi Armstrong, Financial Analyst, KIA, presented a Fund A loan increase for the City of London for the benefit of the London Utility Commission in Laurel County. The request was for an increase of $606,202 to a previously approved loan for the London Sanitary Sewer project to move existing and replace failing water lines. The $4,371,452 loan will have a 20-year term, an interest rate of 0.75 percent, and a debt service payment of $ 220,074.

Representative Wayne made a motion to approve the loan increase. The motion was seconded by Senator McDaniel and approved by roll call vote.

**Reports from the Office of Financial Management (OFM)**

Mr. Ryan Barrow, Executive Director, OFM, presented three items. The first item was a new bond issue for Kentucky Housing Corporation Tax-Exempt Indebtedness for the benefit of Roosevelt House, LLLP, in an amount not to exceed $27,060,000. Proceeds from the funding loan will finance the acquisition, rehabilitation, and equipping of a multifamily residential rental facility, Roosevelt House, by SOCAYR, Inc., consisting of approximately 319 units located in Owensboro, Kentucky.

Representative Wayne made a motion to approve the new bond issue. The motion was seconded by Senator McDaniel and approved by roll call vote.

The second item was a follow up report for the Kentucky Economic Development Finance Authority (KEDFA) Healthcare Facilities Revenue Bonds, Series 2014 (Masonic Homes Independent Living II, Inc. – Miralea Project). The bond issue will finance the acquisition, construction, installation, and equipping of independent living units.

The total par amount of the bonds was $13,000,000. It was a negotiated transaction with FirstMerit Bank as the purchaser. Peck, Shaffer & Williams, a division of Dinsmore & Shohl, served as bond counsel. No action was required.

The third item was an annual report of bonds outstanding as of fiscal year end June 30, 2014. No action was required.

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

Mr. Barrow reported seven school bond issues with SFCC debt service participation with a total par amount of $34,455,000. The state portion of the annual debt service payment was $725,345 and the local contribution was $1,996,730. The bond issues did not involve tax increases.

Senator McDaniel made a motion to approve the school bonds. The motion was seconded by Representative Wayne and approved by roll call vote.

**New School Bond Issues with 100 Percent Locally Funded Debt Service Participation**

Mr. Nacey said five local bond issues were reported to the committee. The bond issues were 100 percent locally funded and one involved a tax increase. No action was required.

With there being no further business, the meeting was adjourned at 1:34 p.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the September Meeting of the 2014 Interim

September 12, 2014

**Call to Order and Roll Call**

The September meeting of the Administrative Regulation Review Subcommittee was held on Friday, September 12, 2014, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Sara Beth Gregory, and Alice Forgy Kerr; Representatives Robert R. Damron, Jimmie Lee, and Tommy Turner.

Guests: Alicia Sneed, Legal Services; Michael Burleson, Board of Pharmacy; Ronnie Harris, Real Estate Commission; Clint Quarles, Department of Agriculture; Dana Todd, Justice & Public Safety Cabinet; LaShana Harris, LaDonna Koebel, Kris Mann, Kevin Warform, Department of Juvenile Justice; Todd Shipp, Department of Transportation; Robert Curry, Brian Gupton, Rosemary Holbrook, Clay Lamb, Sarah Levy, Michelle McElmurray, Commission on Proprietary Education; Freddie Higdon, Steve Humphress, Alcoholic Beverage Control; Stephanie Bell, Jeff Derouen, Daniel Hinton, Ann Ramser, Public Service Commission; Diona Mullins, Office of Health Policy; Julie Brooks, Paula Goff, Allyson Taylor, Department of Public Health; Stuart Owen, Department of Medicaid Services; Victoria Elridge, Phyllis Sosa, Department for Aging and Independent Living.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Emily Harkenrider, Karen Howard, Angela Bertholf, and Betsy Cupp.

**The Administrative Regulation Review Subcommittee met on Friday, September 12, 2014, and submits this report:**

**Administrative Regulations Reviewed by the Subcommittee:**

**EDUCATION PROFESSIONAL STANDARDS BOARD: Alternative Routes to Certification**

16 KAR 9:080. University-based alternative certification program. Alicia Sneed, director of legal services, represented the board.

In response to questions by Co-Chair Harris, Ms. Sneed stated that the alternative certification program was established for people who do not have a teaching certificate but who have expertise in specialized fields and want to teach in grades P–12.

A motion was made and seconded to approve the following amendments: (1) To amend the RELATES TO paragraph to add a statutory citation; and (2) to amend Section 12 for clarity. Without objection, and with agreement of the agency, the amendments were approved.

**GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board**

201 KAR 2:030. License transfer. Michael Burleson, executive director, represented the board.

In response to questions by Co-Chair Harris, Mr. Burleson stated that this administrative regulation established that an applicant seeking licensure in Kentucky by reciprocity from another state may apply for licensure as early as the score transfer, which may be up to ninety (90) days after the examination. The applicant no longer had to wait one (1) year from the date of license by another state pharmacy board.

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

201 KAR 2:040. Registration of pharmacist interns.

In response to a question by Co-Chair Harris, Mr. Burleson stated that, if a licensee was charged with an offense, the board would be notified and begin an investigative procedure. Action was not taken until the procedure ran its full course.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 7 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Real Estate Commission: Commission**

201 KAR 11:011. Definitions for 201 KAR Chapter 11. Ronnie Harris, general counsel, represented the commission.

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

201 KAR 11:105. Advertising listed property;

advertising public information about specific property; when consent and authorization of owner or principal broker is required.

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

201 KAR 11:121. Improper conduct.

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

**DEPARTMENT OF AGRICULTURE: Office of State Veterinarian: Division of Animal Health: Livestock Sanitation**

302 KAR 20:066. Chronic wasting disease surveillance in farmed cervids. Clint Quarles, staff attorney, represented the division.

In response to a question by Co-Chair Harris, Mr. Quarles stated that Kentucky was not currently experiencing agricultural problems pertaining to chronic wasting disease; however, the division wanted to stay ahead of the issue. Kentucky was the first state federally approved for its monitoring program regarding chronic wasting disease.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend Sections 3, 4, 11, and 12 to update citations; (3) to amend Section 3 to clarify that inventories shall be conducted by the owner with a representative from the state veterinarian's office; and (4) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: Council**

503 KAR 1:060. Definitions for 503 KAR Chapter 1. Dana Todd, assistant general counsel, represented the cabinet.

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

503 KAR 1:120. Professional development in-service training: graduation requirements; recognized courses; records.

In response to questions by Co-Chair Harris, Ms. Todd stated that the council had achieved compliance with the previous limit of twenty (20) percent excused absences from training; however, the council wanted to ensure rigorous training by reducing the limit of excused absences to ten (10) percent. The training was typically a forty (40) hour course.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 4 to update citations; and (2) to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Commercial Driver's License**

601 KAR 11:030. Restrictions and endorsements on commercial driver's licenses. Todd Shipp, staff attorney, represented the division.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Commission on Proprietary Education: Commission**

791 KAR 1:010. Applications, permits and renewals. Robert Curry, acting executive director; Clay Lamb, staff attorney; and Rosemary Holbrook, staff attorney, represented the commission.

In response to questions by Co-Chair Harris, Ms. Lamb stated that these administrative regulations required that advertisements regarding job placement rates include jobs within the field of study. The commission was raising fees because currently there were not enough funds for a permanent director, rent, attorney's fees, and other operating expenses. After the dissolution of the previous regulatory body and the creation of the commission, new responsibilities and recent audits also resulted in new expenses. The commission had been in place in the current form for two (2) years.

Co-Chair Harris stated that, because the commission was new and had only been in operation for two (2) years, it should proceed carefully to fulfill its new mandates.

Senator Gregory thanked the commission for working with commercial driver license schools and stakeholders to reach an agreement for these requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 2 and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A and for clarity. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:020. Standards for licensure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:025. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Sections 2, 3, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:030. Procedures for hearings.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:035. Student protection fund.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:050. Application for license for commercial driver license training school.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 3 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:060. Application for renewal of license for commercial driver license training school.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.222; and (3) to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:070. Commercial driver license training school instructor and agent application and renewal procedures.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and the NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

791 KAR 1:091. Repeal of 791 KAR 1:090.

**PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing**

804 KAR 4:230 & E. Extended hours supplemental licenses. Fred Higdon, commissioner; Steve Humphress, general counsel; and Christina Smith, legislative liaison, represented the department.

In response to questions by Co-Chair Harris, Mr. Humphress stated that these licenses were for Sunday only and were considered extended supplemental licenses, separate from local licenses. These licenses were for venues such as airports, convention centers, and historic sites.

In response to a question by Representative Lee, Mr. Humphress stated that small distillers may be licensed for sampling (tastings), depending on the designation of the county. For example, a license could not be issued to a wet city in a dry county.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:351. Repeal of 804 KAR 4:070, 804 KAR 4:350, and 804 KAR 4:420.

804 KAR 4:400 & E. ABC basic application and renewal form incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend the Basic Application form to: (a) update citations; (b) replace references to paper registration forms with references to the new online registration process; and (c) have an applicant acknowledge that if a license transfer is not approved, the license surrender is void; and (2) to amend Section 2 to change the edition date of the revised basic application form. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:410 & E. Special applications and registration forms incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a statutory citation; (2) to amend Sections 2 and 3 to replace the paper registration forms with an online registration process; (3) to amend the Out-of-State Producer/Supplier form and the Special Temporary License Application form to reference the new online registration process, to: (a) update references; and (b) make minor technical corrections; and (4) to amend Section 3 to change the edition date of the revised forms. Without objection, and with agreement of the agency, the amendments were approved.

**Malt Beverages and Wine**

804 KAR 14:010. Malt beverage and wine for personal use.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

**ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities**

807 KAR 5:001. Rules of procedure. Stephanie Bell, deputy executive director; Jeff Derouen, executive director; and Ann Ramser, staff attorney, represented the commission.

In response to questions by Co-Chair Harris, Mr. Derouen stated that, in 2013, the commission's authorizing statute was amended to require a water district requesting a fee increase to present testimony to its governing body. That requirement was subsequently deleted from the statute; therefore, this administrative regulation was amended accordingly. Ms. Bell stated that there was some ambiguity regarding how a fiscal court operated in conjunction with the commission, but the commission had the authority to prevent inappropriate fee increases. These administrative regulations provided for consistency with various facilities that provide notification electronically.

A motion was made and seconded to approve the following amendments: to amend Sections 4, 11, 13, 16, 20, 21, and 23 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

807 KAR 5:011. Tariffs.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add statutory citations; and (2) to amend Sections 9 and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

807 KAR 5:068. Purchased water adjustment for water districts and water associations.

807 KAR 5:069. Filing requirements and procedures for federally funded construction project of a water association, a water district, or a combined water, gas, or sewer district.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 2 to make technical corrections; and (2) to amend the RELATES TO paragraph to add statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

807 KAR 5:075. Treated sewage adjustment for water districts and water associations.

807 KAR 5:076. Alternative rate adjustment procedure for small utilities.

**State Board on Electric Generation and Transmission Siting: Utilities**

807 KAR 5:110. Board proceedings.

A motion was made and seconded to approve the following amendments: to amend Sections 5 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Public Service Commission: Utilities**

807 KAR 5:120. Applications for certificate of public convenience and necessity for certain electric transmission lines.

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

**CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need**

900 KAR 6:070. Certificate of Need considerations for formal review. Diona Mullins, policy adviser, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Mullins stated that concerns had arisen during the public comment period regarding the formal review procedures. The cabinet revised the pertinent portions in the Amended After Comments version of this administrative regulation to revert to the original process requirements. There was a distinction between the certificate of need process and matters of compliance with the state health plan. The cabinet's intent was to keep those procedures clearly separate.

Representative Lee stated that the Kentucky Hospital Association was concerned about the initially proposed change because it deleted an important review step. Those concerned stakeholders seemed comfortable once the language was reverted in the Amended After Comments version.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS 13A.222. Without objection, and with agreement of the agency, the amendments were approved.

**Data Reporting and Public Use Data Sets**

900 KAR 7:030. Data reporting by health care providers.

**Department for Public Health: Division of Maternal and Child Health: Kentucky Early Intervention System**

902 KAR 30:001. Definitions for 902 KAR Chapter 30. Julie Brooks, health program administrator; Paula Goff, branch manager; and Allyson Taylor, chief of staff, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Taylor stated that the revisions to these administrative regulations were precipitated by corresponding federal revisions. The First Steps Program was not changing overall; however, minor changes were being made to various components of the program. The biggest change was an attempt to fortify efforts to locate children who would be eligible because there seemed to be many eligible children who were not being referred to the program. Additionally, requirements for providers were being updated, as were fees and the use of private insurance. The sliding scale for fees was being amended to raise the threshold and reduce rates. The maximum fee would be $400 per month. There was now an option to bill private insurance in lieu of the family fee if the applicant agreed.

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

902 KAR 30:110. Point of Entry and service coordination.

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

902 KAR 30:120. Evaluation and eligibility.

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

902 KAR 30:130. Assessment, service planning, and assistive technology.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; and (2) to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 30:150. Personnel qualifications.

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

902 KAR 30:160. Covered services.

902 KAR 30:180. Procedural safeguards.

902 KAR 30:200. Coverage and payment for services.

**Department for Medicaid Services: Division of Community Alternatives: Medicaid Services**

907 KAR 1:835. Michelle P. waiver services and reimbursement. Stuart Owen, regulation coordinator, represented the department.

Representative Lee stated that he expected discussion of this program in the future because the CMS cap had been reached and there were many applicants still on the waiting list. The program was initially for those eighteen (18) years and older; however, currently approximately forty (40) percent of participants were under eighteen (18) years, some as young as five (5) months. The assessment process was developed for adults and often was insufficient for younger applicants. In response, Mr. Owen stated the cabinet's agreement and provided the example that the assessment included questions about if the participant needed help bathing. Any small child would need help bathing; therefore, the assessment was insufficient to determine if a small child should be eligible.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define "certified psychologist" and "licensed psychological associate"; (2) to amend Section 6 to delete the enrollment provisions applicable to the program's initial enrollment in 2008; (3) to amend Section 10 to delete provisions requiring medication errors to be reported on a specific form; (4) to amend Section 11 to delete provisions that required removal of an individual from the Michelle P. Waiver Program waiting list after a documented attempt to contact or locate the individual or the individual's legal representative; and (5) to amend Sections 1 through 16 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Department for Aging and Independent Living: Division of Quality Living: Aging Services**

910 KAR 1:180. Homecare program for the elderly. Victoria Elridge, deputy commissioner, and Phyllis Sosa, staff assistant, represented the cabinet.

**The following administrative regulations were deferred to the October 14, 2014, meeting of the Subcommittee:**

**GENERAL GOVERNMENT CABINET: Board of Embalmers and Funeral Directors: Board**

201 KAR 15:015. Per diem compensation of board members.

**Board of Licensed Professional Counselors: Board**

201 KAR 36:060. Qualifying experience under supervision.

201 KAR 36:080. Inactive and retired licensure status.

**ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Division of Water: Public Water Supply**

401 KAR 8:300. Lead and copper.

401 KAR 8:700. Bottled water.

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

501 KAR 6:060. Northpoint Training Center.

**JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare**

505 KAR 1:110. Department of Juvenile Justice Policies and Procedures: program services. LaDonna Koebel, assistant general counsel; Kris Mann, director; and Kevin Warform, manager, Quality Assurance Branch, represented the department. Bill Dolan, Protection and Advocacy, appeared in support of deferral of this administrative regulation.

In response to questions by Co-Chair Harris, Ms. Koebel stated that this administrative regulation was being substantively amended after the public comment period had ended because the accreditation association had revised national standards, and the department needed to revise requirements commensurately in order to maintain accreditation, which was to be considered in December 2014. The department notified RegWatch, Protection and Advocacy, and the Department for Public Advocacy of the initial proposed administrative regulation. The department then received public comments in response and further amended this administrative regulation in response to those comments. Afterward, internal staff and the Department for Public Advocacy noticed errors, both typographic and substantive. She stated that Subcommittee staff told her that the department had the option to correct those as part of the Amended After Comments version of this administrative regulation or as part of an amendment prior to Subcommittee consideration. The department notified those who had made the additional comments of the proposed agency amendment.

Co-Chair Harris stated that technical amendments, such as typographical corrections, were appropriate, but it was inappropriate to use an agency amendment to circumvent public notification requirements. It was a bad precedent to establish. Additionally, he stated that he was concerned that the amendment deleted the requirement for parent notification if a child was put into restraint and was injured as a result. Ms. Koebel stated that the parent was notified if an injury required more than first aid.

In response to a question by Representative Turner, Ms. Koebel stated that the department was leery of deferring because this administrative regulation needed to be in place for the accreditation consideration in December 2014. Mr. Warform stated that the department had to have this administrative regulation in place by December, and also had to have the Standard Operating Procedures drafted and in place.

Representative Lee stated that even perceived changes of this magnitude needed the support of Protection and Advocacy. Mr. Dolan stated that Protection and Advocacy supported deferral of this administrative regulation in order to fully consider ramifications of any of these amendments.

A motion was made and seconded to request that the department defer consideration of this administrative regulation to the October 14 Subcommittee meeting. Ms. Koebel agreed to the deferral.

The proposed agency amendments included the following: (1) to amend policy 300 to clarify definitions; (2) to amend policy 300.1 to require annual rather than periodic assessment of the collective service needs of program youth; (3) to amend policy 300.2 to require admission letters to be mailed within seven rather than fourteen days to the committing judge; (4) to amend policy 301 to delete screening requirements that are contained in another policy; (5) to amend policy 301.1 to require the personal property inventory to be kept in the youth's individual client record and to delete the provision that allowed jewelry, including medical alert jewelry and religious medallions, to be worn upon approval; (6) to amend policy 301.2 to limit culturally sensitive hair care maintenance to when a licensed professional is available and to remove hair setting and maintenance of existing cornrows from the provided services; (7) to amend policy 310 to require facility mail, telephone, and visitation procedures to be reviewed annually; (8) to amend policy 315 to allow a facility to maintain a petty cash fund of $100 from the youth activity account fund for certain specified uses; (9) to amend policy 317 to except the Cadet Leadership and Education Program from the prohibition against using exercise as punishment and to limit the allowed exercise to the Exercise of the Day; (10) to amend policy 318.2 to clarify that when a juvenile signs a disciplinary report, he is verifying that he received the report and had an opportunity to respond rather than its accuracy; (11) to amend policy 319 to reduce the youth worker to juvenile staffing ratio at youth development centers from 1:16 to 1:12 and to reduce the staff ratio at group homes from 1:8 to 2:8 except when the youth are at school; (12) to amend policy 321 to delete the requirement that a youth's parent and juvenile service worker be notified of the use of restraints resulting in injury; (13) to amend policy 324 to delete the requirement that a youth's parent and juvenile service worker be notified within twenty-four hours if the youth was restrained; (14) to amend policy 325 to require strip search procedures to be reviewed rather than reviewed and authorized by the director of medical services and the superintendent; (15) to amend policy 327 to require documented notification of a parent within two hours of a juvenile's unexpected absence from a day treatment program, foster care placement, or private child care agency; (16) to amend policy 329 to delete procedures for weekly progress summaries; (17) to amend policy 332 to require notification of a furlough seven rather than ten days before the furlough; (18) to amend policy 344 to require youths in group homes to receive library services though local school districts; (19) to amend policy 345 to require a response to a dietary request within seven business days; (20) to amend policy 347 to renumber it as 347.1 and to align the procedures for various sentence credits for youthful offenders with KRS 197.045; (21) to amend policy 351 to align the parole hearing procedures for youthful offenders with KRS 439.340; (22) to amend policies 300, 300.2-303, 307, 308, 310, 315-318.1, 318.3, 319, 321-329, 331, 332, 334.2, 345, 347.1, and 351 to make minor clarifications and technical changes; and (23) to amend Section 1 to change the edition date for the revised policies.

**TRANSPORTATION CABINET: Kentucky Bicycle and Bikeways Commission: Motorcycle and Bicycle Safety**

601 KAR 14:020. Bicycle Safety standards.

**Department of Highways: Division of Maintenance: Billboards**

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

**CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need**

900 KAR 6:055. Certificate of Need forms.

900 KAR 6:075. Certificate of Need nonsubstantive review.

**Department for Medicaid Services: Division of Policy and Operations: Hospital Service Coverage and Reimbursement**

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

The Subcommittee adjourned at 2:10 p.m. until October 14, 2014 at 1 p.m.

## EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

**Minutes of the Meeting**

October 6, 2014

**Call to Order and Roll Call**

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Monday, October 6, 2014, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Rita Smart, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Rita Smart, Co-Chair; Senator Gerald A. Neal; Representatives Tim Couch, Joni L. Jenkins, and Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham.

Guests: Mitch Crump, Kentucky Association of School Superintendents; Erin Klarer, Kentucky Higher Education Assistance Authority; and Clyde Caudill, Kentucky Association of School Administrators.

LRC Staff: Janet Stevens, Ben Boggs, Joshua Collins, and Lisa Moore.

**Approval of March 26, 2014, Meeting Minutes**

Representative Marzian moved to approve the minutes, and Representative Jenkins seconded the motion. The motion carried.

**Acceptance of Office of Education Accountability Reports: *Atlas of Education Data–2013*, and *District Data Profiles-2013***

Ms. Karen Timmel-Hatzell, Acting Director, Office of Education Accountability (OEA), introduced Mr. Gerald Hartmann, the new OEA Research Director. Ms. Brenda Landy, Research Analyst, OEA, in a PowerPoint demonstration, indicated that the purpose of the profiles and atlas is to provide easy access to commonly used education data.

Ms. Landy said the atlas provides a quick reference for legislators and the public to find a convenient source of information about all of Kentucky's school districts and how they compare to the state and other districts with similar characteristics. It contains thematic maps and tables of kindergarten through grade 12 education data as well as contextual data, such as demographics. She said that, as a supplement to detailed tabular data, thematic maps can make large amounts of data easier to comprehend and can reveal patterns and trends not readily apparent in data tables.

The profiles and atlas are compilations of data from the Kentucky Department of Education (KDE). The data was recorded by school districts in two primary systems: the student information system (known as Infinite Campus (IC)), and Munis.

Ms. Landy said *Kentucky District Data Profiles* is also intended to offer legislators and the general public a convenient source of information about each Kentucky school district. Wherever possible, longitudinal data are included to track trends. A dictionary of defines each variable and identifies each data source. The publication is updated annually.

The profiles are organized by topical areas: Overview and Trends, Staffing, Finance, and Performance. At the end of the district profiles, a Kentucky-wide profile is included for comparative purposes. This is followed by five tables that sort districts by adjusted average daily attendance, free and reduced-price lunch, eligibility, per-pupil state revenue, per-pupil property assessment, and junior composite ACT average for the 2013 school year. The tables allow profile users to identify similar districts for comparative purposes.

Ms. Landy said the Overview and Trends section provides data on school membership, end-of-year adjusted average daily attendance, student demographics, educational attainment, and school discipline. The data are provided in raw numbers and, where appropriate, percentages.

Ms. Landy said the Staffing section includes district data on certified personnel, classified personnel, and full-time equivalent teachers. Additional data on average salaries, years of teaching experience, and rank are provided. A data table that breaks down the salary schedule for teachers by rank completes the section.

Ms. Landy said the Finance section covers both per-pupil current expenditures and revenues by source. District data are contrasted to state averages for current expenditures by function. Revenues include federal, state, local, and other sources. Each district's fund balance percentage and end-of-year general fund balance are reported.

Ms. Landy said the Performance section includes data from EXPLORE, PLAN, and ACT; Advanced Placement exams and trends; and a breakdown of the 2013 Next-Generation Learners assessment scores. Additional appendices break down district data for comparative purposes. These appendixes show how data can be grouped to compare trends across districts of similar size, demographics, or performance.

Ms. Landy said *Kentucky District Data Profiles* provides a snapshot of each school district. While additional data are available and useful, the data chosen were deemed to be the most concise indicators of district trends. Given the differences in district size, geography, and socioeconomic conditions, the profiles are not conducive to direct comparisons of district effectiveness. They present a broad array of indicators across multiple areas of interest.

Ms. Landy said 15 percent of Kentucky's students attend school in Jefferson County. The four largest school districts make up more than a quarter of the state's students, while the state's four smallest districts represent fewer than 300 students. The smaller districts face unique challenges.

Ms. Landy said large numbers of students receiving free and subsidized lunch can indicate high poverty in the district. Districts with many impoverished students tend to have lower student achievement, less local funding, and more need for student services. These districts receive additional money from Support Educational Excellence in Kentucky (SEEK) funds for those students.

Responding to a question from Representative Graham, Ms. Landy said students are measured using the same cohorts as tracked in No Child Left Behind (NCLB). KDE produces the data, and OEA prepares it for legislators.

Responding to a question from Senator Wilson regarding student and teacher ratios, Ms. Landy said the staffing chart for student and teacher ratios by county only includes classroom teachers who are actively teaching, and not guidance counselors. OEA has included data in the report that is not readily available on the KDE website.

Responding to Representative Marzian's question regarding the student profiles for Jefferson County, Ms. Landy said the number of students in Jefferson County increased between 2006 and 2013. OEA tracks the number of homeless students, but the data has not been analyzed because some definitions are changing. Representative Marzian said 10,000 to 12,000 Jefferson County students are living in shelters, cars, and with other relatives. She said more should be done to assist this large population because the poor living conditions of these students could negatively impact test scores.

Responding to questions from Representative Smart, Ms. Landy said OEA shares this data at the cooperative meetings so that local districts can share the district data profiles with board members. The information is also online for school board members to look at individual district characteristics and compare them to other districts.

Representative Smart said she would like for the state board to provide training to new board members explaining how to use the data to help set goals for their districts. Ms. Landy said the district profiles and the atlas are mailed to each superintendent, but she does not know if the information is included in the training sessions for new board members.

Responding to Representative Graham, Ms. Landy said five districts do not report Advanced Placement exam pass rates because they do not have any high schools in their districts. KDE does not report Advanced Placement results for 13 districts because of the Family Educational Right and Privacy Act (FERPA) of 1974. KDE has worked with the United States Department of Education, and the rule is that, if fewer than ten students take a test, KDE does not report the number of students taking the test or the outcome in an effort to protect the privacy of those students.

Responding to Representative Graham's concern that several of the low socio-economic counties are not offering an Advanced Placement curriculum, Ms. Landy said those districts may be offering students other services such as dual credits. She said it may be worthwhile to analyze because some districts should be doing more but are not able to because money is not available, while for other districts it may not be a priority.

**OEA Annual Report for 2013**

Ms. Timmel-Hatzell said KRS 7.410 (2)(c)(8) directs OEA to prepare an annual report of the status and results of the annual research agenda, a summary of completed investigative activity, and other items of significance to the Education Assessment and Accountability Review Subcommittee (EAARS). Since 1990, OEA has carried out investigative duties through its division of investigations. All investigations are managed by a division head who oversees all matters investigated by the office. The division has three full-time and two part-time staff who perform investigative duties.

Ms. Timmel-Hatzell said while the range of subjects received by the OEA staff is broad, some issues such as board member eligibility, board member interference in personnel matters in the district, and bullying of students by other students and teachers tend to arise more often.

Ms. Timmel-Hatzell said OEA accepts anonymous complaints, but only written complaints are investigated. The OEA confidential report sent to EAARS members does not show specific school districts for confidentiality reasons. In 2011, there were 57 cases opened and 72 closed, and in 2012 there were 79 cases opened and 52 closed. There were 776 written complaints received in 2013, and 28 percent were about inappropriate actions by board members. OEA can investigate any individual, board member, superintendent, or teacher.

Responding to a question from Representative Smart, Ms. Timmel-Hatzell said most complaints involve the use of non-certified personnel and districts not posting job positions. The complaints are numerous, but most result from school districts trying to save money by using aides if they are short-staffed.

Ms. Timmel-Hatzell said OEA records are exempt from the open records law. This change was brought about through the Kentucky Education Reform Act (KERA) of 1990 because of fears of retaliation against employees who report complaints. OEA will release a copy of the final report on an open records request only.

Ms. Timmel-Hatzell said OEA recommends that the General Assembly consider raising the education requirements for local board of education members due to the high volume of complaints. More board members seem to have a personal agenda rather than a desire to help children.

Ms. Timmel-Hatzell reported on the 2013 studies that were published and approved by EAARS. She discussed OEA's recommendations to enhance the studies, which are included in the meeting materials located in the Legislative Research Commission (LRC) library.

Responding to a question from Senator Wilson regarding the amount of time it takes to complete an investigation, Ms. Timmel-Hatzell said the goal is to finish a case in six months. OEA does not always meet the goal due to the volume of the complaints to investigate or inclement weather conditions that hinder staff travel. The nature of the requests to investigate can also alter the timeframe of completion; complaints involving financial matters generally require more time to investigate.

Responding to Senator Neal's question regarding the correlation of raising the requirements for local board members and decreasing the number of complaints involving board members, Ms. Timmel-Hatzell said an associate's degree is required for state board members. Consistency in policy may help diminish some of the complaints. Representative Graham said local districts need to determine board member qualifications because some districts across the state cannot find board members to serve.

Responding to a question from Representative Graham, Ms. Timmel-Hatzell said 75 to 80 percent of the complaints received by OEA are legitimate complaints. There are only six people on staff who visit the school districts in person to determine if there is a violation. Representative Graham said OEA may need to hire two to three more employees to cover the entire state, or hire regional people.

Senator Wilson moved to accept the publication *Atlas of Education Data for 2013*, and Representative Couch seconded the motion. The motion carried.

Representative Marzian moved to accept the publication *District Data Profiles for 2013*, and Senator Wilson seconded the motion. The motion carried.

Senator Wilson moved to accept the OEA Annual Report for 2013, and Representative Jenkins seconded the motion. The motion carried.

**Other Business**

Representative Smart said there will be an EAARS meeting in November to discuss OEA study topics for 2015. Legislators can submit suggestions for study topics to staff.

**Adjournment**

With no further business before the committee, the meeting adjourned at 2:30 PM.

## PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

**Minutes**

September 11, 2014

**Call to Order and Roll Call**

The Program Review and Investigations Committee meeting was held on Thursday, September 11, 2014, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Martha Jane King, Chair, called the meeting to order. In remembrance of the events that occurred on September 11, 2001, Representative King asked that those present observe a moment of silence. She welcomed Representative Koenig as a guest and congratulated Senator McDaniel on his candidacy for lieutenant governor. The secretary then called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Martha Jane King, Co-Chair; Senators Tom Buford, Ernie Harris, Jimmy Higdon, Dan "Malano" Seum, and Whitney Westerfield; Representatives Leslie Combs, Jim DeCesare, David Meade, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Legislative Guest: Representative Adam Koenig.

Guests: Dale W. Edmondson, Chairman of Commercial Mobile Radio Service Emergency Telecommunications Board (CMRS Board) and Executive Director of Campbell County Consolidated Dispatch Center; Joe Barrows, Executive Director, CMRS Board; Major John Bradley, Chief Information Officer, Kentucky State Police and member of Commercial Mobile Radio Service Emergency Telecommunications Board; Judge/Executive Rob Rothenburger, Shelby County; Mayor Steve Austin, Henderson; Ed Butler, Executive Director, Emergency Communications, Kenton County.

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

**Minutes for July 10, 2014**

Upon motion by Senator Harris and second by Representative Simpson, the minutes of the July 10, 2014, meeting were approved by voice vote, without objection.

**Follow-up on Report: *911 Services and Funding: Accountability and Financial Information Should Be Improved*** (adopted in 2011)

Mr. Knowles stated that the responsibility for 911 is split between state and local governments. Local governments, which have primary responsibility, operate public safety answering points (PSAPs) or arrange for 911 coverage, and generally raise most funds for 911 service.

State government, through CMRS Board, ensures that wireless calls are handled properly and distributes wireless 911 funds. With its authority under Senate Bill 119, the board is gathering information on local 911 costs and revenues.

In many places, local governments work together on 911 services. A common arrangement is a city that operates a PSAP for the entire county. The relationships and responsibilities of local governments are not always clearly defined. In some places, the parties may not have a written agreement or may not be able to locate one.

Some local governments formed interlocal boards that receive revenues and make budget decisions. Most of these boards were created in order to receive 911 services from the Kentucky State Police (KSP). Local control may be limited in city-county arrangements and with interlocal boards and other arrangements.

The report's first recommendation is that all such arrangements should have a written agreement and should clearly establish the authority to control funds and provide 911 services.

If there is a 911 board, it should have a fiscal agent to handle its funds and should issue an annual audited financial statement. Local 911 fees should be remitted directly to the specified authority.

The report's second recommendation is that KSP or any other state agency that provides local 911 services should do so on a contract basis in order to preserve local control.

The state agency should not be a party to interlocal agreements unless required to be and should not have voting representatives or officers on a 911 board that was formed by interlocal agreement.

Both recommendations suggest legislative consideration.

HB 1, enacted in the 2013 Regular Session, does not directly address 911 agreements. It applies in some respects, particularly by imposing financial reporting and audit requirements. It appears to have no effect on the recommended membership of regional 911 boards and might not apply to contractual arrangements between local entities. Program Review staff found no other enacted legislation that was relevant to these or the other recommendations in the report.

The ability to locate a wireless 911 caller is crucial to emergency response. The report notes that geospatial audits to assess the location process were not a prerequisite for certification and were not repeated. Wireless providers are responsible for the accuracy of the location information, but auditors were not required to report on provider accuracy.

The report's third recommendation is that the board pursue its plan for ongoing geospatial audits and that auditors should report on the accuracy of the location service of wireless providers. The CMRS Board has not updated its regulations regarding geospatial audits.

Funding for 911 includes local 911 fees, local general funds, and the state 911 wireless fee. KSP also uses some state general funds to operate its PSAPs. Permitted uses of local 911 fees are unclear and differ from the permitted uses of the state 911 fee. Controls on 911 funds are inconsistent. Local 911 funds are only occasionally subject to audit. Local accounting procedures can make it difficult to perform audits of local and wireless 911 funds.

The wireless fund audits might not reach all the entities that handle wireless funds because the CMRS Board's authority is limited to auditing PSAPs. The board has audited only a selection of PSAPs during each 2-year audit cycle. The board also audits wireless providers to verify fee collection, selecting some providers for each 2-year cycle.

The report's fourth recommendation is that the General Assembly might wish to clarify whether the CMRS Board should audit all providers every 24 months and whether the board should audit all PSAP authorities every 24 months. In the absence of such clarification, the board should audit all providers and PSAP authorities every 24 months.

The report's fifth recommendation is that the General Assembly might wish to consider additional audit controls so that local and wireless 911 revenues are maintained in separate restricted funds; each entity operating a PSAP creates a 911 cost center or has some other means to identify 911 expenses separately from other expenses; and all entities that handle dedicated 911 funds are subject to audit by the CMRS Board or another auditing authority.

CMRS Board annual reports indicated that an effort was made to bring audits up to date, but no statistics were given.

The CMRS Board is responsible for reviewing the rate of the wireless 911 fee every 24 months. However, the statute is unclear as to whether reports are required.

The report's sixth recommendation is that the General Assembly might wish to consider clarifying whether the board should report on the wireless 911 fee cost studies and whether the board should report the methodology and findings of each review to designated officials.

The wireless statute does not refer to local governments but rather names "PSAPs" to receive funds and be subject to audits. However, PSAPs have no standing as fiscal agents. A local or state authority operates each PSAP and handles its funds. The wording has limited the CMRS Board's ability to distribute and audit state 911 funds.

The report's seventh recommendation is that the General Assembly might wish to consider whether to amend the statute to refer to state or local government authorities responsible for 911 services.

The recommendation also suggests clarifying how wireless funds should be distributed and controlled when local governments obtain 911 services from a state agency and whether wireless funds may be used to assist a noncertified secondary PSAP to handle wireless enhanced 911 calls.

Local and wireless 911 funds are insufficient to cover the costs of most PSAPs, so they receive supplemental general revenues from local governments. However, some local governments and interlocal boards that contract with KSP have accumulated 911 fund surpluses. The statute limits surpluses to the original purpose but provides no other guidance.

The report's eighth recommendation is that the General Assembly might wish to limit the amount of 911 funds that a local government may hold in reserve and to require local governments to reduce 911 levies or return state wireless funds when revenues exceed costs.

Traditional 911 fees apply to phone lines and devices. New technologies and ways of delivering services might not fit existing fee structures. For example, differing postpaid and prepaid wireless fee methods are a result of accommodating new technologies and business models.

The statutory fee for postpaid service—the traditional wireless contract service—is 70¢ per month per phone. The report calculated that the fee for prepaid wireless service generated significantly less per phone. Their prepaid business model has led some providers to pay some of the 911 fee themselves rather than collecting it directly from their customers.

In order to accommodate the prepaid business model, the wireless industry proposed, and the National Conference of State Legislatures adopted, a model bill for a point-of-sale 911 fee on prepaid service. The report shows that the model bill would create an uneven fee burden and had opportunities for potentially large losses. If the target is to collect an average of 70¢ per phone, then the model bill would probably generate only half of that. Other losses could occur because of interstate sales over the Internet and other sellers who might not collect the fee.

The report presents features that probably would reduce the uneven fee burden somewhat and would more likely meet the revenue target. The report makes no recommendation on funding but does recommend obtaining more information pursuant to SB 119 of the 2011 Regular Session.

Senate Bill 119 effectively asks for a statewide 911 financial statement showing the costs for delivering 911 services and the revenues used to pay for them, for both landline and wireless calls. The bill gives the CMRS Board the responsibility to collect the information and provide it to the LRC. The board was unable to complete the data collection in time for inclusion in the Program Review 911 report. Because of the complexities of 911 oversight and funding, the board probably would need to send staff out to the field to collect the information.

PSAP authorities have to pay for delivery of 911 calls, and the CMRS Board reimburses some wireless providers for 911 calling costs. That makes it important to have information about the pricing of landline 911 phone service and the 911 costs of wireless providers.

The report's ninth recommendation is that CMRS Board staff should visit all PSAPs and related local governments and boards to establish which ones have the needed information and to validate the information. The board should take steps in subsequent years to verify the data collected. The General Assembly might wish to consider permitting the board to allocate funds to these tasks beyond the current administrative fund limit.

CMRS Board annual reports did not mention a program of visits to local governments and PSAPs to establish and validate financial information.

The report's tenth recommendation is that the CMRS Board report all revenues contributing to 911 services and all costs of providing those services in a manner that would permit decision makers to understand the sources and uses of 911 funds.

CMRS Board annual reports included information resembling a statewide 911 financial statement. The reports acknowledged that the information remains incomplete and unverified.

The report's eleventh recommendation is that the board should examine the 911 fee collection process, the prices charged for delivering 911 calls, the actual cost of delivering 911 calls, and the need for continued wireless provider cost recovery.

This recommendation applies to landline and wireless providers. CMRS Board annual reports did not mention the fees collected by providers or the amounts paid to providers for 911 service. The annual reports did recommend that the General Assembly repeal wireless provider cost recovery.

The 911 service provided by KSP appeared to have inconsistent quality. Some local authorities were pleased with the service and others reported dissatisfaction. The report's twelfth recommendation is that KSP should review the quality of the 911 services it provides to counties and review the satisfaction of local responder agencies.

In response to a question from Representative DeCesare concerning whether audits should be conducted for contracts that have been created by state agencies with both local governments and the 911 board to provide 911 services, Mr. Knowles said that prior to the passage of the HB 1 in 2013, there were no such requirements. HB 1 does not specifically address 911 issues but still might have some bearing on the auditing of 911 services. He said that he did not know whether third-party fiscal agents with contracts for 911 services should also be subjected to audits, but that he would check on this.

In response to a question from Senator Higdon, Mr. Knowles clarified that the Federal Communications Commission (FCC) originally set up provisions for wireless providers to receive cost recovery from states for the costs of developing wireless 911 service, but that over the years, the purposes for the overhead costs have been completed and there is no longer a need.

In response to a question from Senator Higdon, Mr. Knowles summarized SB 119. It empowers the CMRS Board to collect information such as financial statements. An annual or biannual report is required. At the time of the study, some of the interlocal 911 boards that contracted with KSP had considerable surpluses.

Senator Buford commented that he has not always been able to obtain needed information to address constituents' questions about 911 services. The General Assembly has left local governments to do self audits. A statewide 911 financial statement that covers as many 911 areas as possible is needed. The General Assembly may not have the authority to require an audit of local services, so legislative action may be needed. He often sees the 911 service providers with sophisticated equipment such as expensive cars, but responses to 911 calls are not always as fast as possible. The General Assembly needs to fully understand how the 911 service provider's funds are being used to respond to 911 calls to determine whether it is authorizing more funding than necessary. Funding or legislative action should be contingent on more information being provided through audits of 911 centers. He asked how many cell phones and land lines are being used in Kentucky.

Referring to Recommendation 2.3, Senator Westerfield inquired about the definition of "geospatial audit." He mentioned a recent story that appeared in the Nashville, Tennessee press that described a woman who called 911 from a cell phone, but whose husband died before responders reached him because the call pinged the wrong cell tower and lengthened the response time. He said that this story raises a question about how 911 calls are routed.

Mr. Knowles confirmed that geospatial audits were done in Kentucky for wireless phones. However, the results of the audits were not required to be reported and they did not address the accuracy with which the wireless providers were able to determine the call location.

In response to questions from Representative Simpson, Mr. Knowles stated that KSP contracts with local governments and interlocal boards to provide 911 services.

Representative Simpson commented that KSP might not be charging enough for 911 services. The General Assembly might be better served by focusing on surplus funds held by local governments.

Senator Higdon said that there are over 4 million cell phones in Kentucky. He mentioned that Senator Buford sponsored SB 119.

In response to a question from Representative King as to status of recommendations directed to the General Assembly in the Program Review study, Mr. Knowles said that the only relevant legislation was HB 1. It required audits, although not specifically of 911 service centers.

Dale W. Edmondson and Joe Barrows next appeared before the committee.

In response to a question from Senator McDaniel as to why CMRS runs an annual fund surplus, Mr. Edmondson said that CMRS receives 70¢ per cell phone. A small, fixed amount is retained for CMRS administrative functions. Ten percent of the remaining funding goes into a CMRS grant fund. To be able to quickly respond to changing technological conditions, the board has been retaining grant funding. The CMRS Board did not receive a federal grant that was included in the reported surplus, so the actual surplus is less than reported. The surplus funding has been returned to the counties, leaving $50,000 in the grant fund.

Senator McDaniel commented that the CMRS report submitted to LRC said that $7.3 million was committed and unexpended. The General Assembly's frustration is that it wrote a budget based on the numbers in that report.

Mr. Barrows explained that the money in the fund stays obligated to specific counties for 911 services until the counties ask for reimbursement for 911 service costs that they have incurred. In 2013, CMRS conducted a series of 911 projects that have not yet been completed.

Senator McDaniel commented that the CMRS's total balance seems to be increasing. He asked for an accounting as to the entities to which CMRS funds are allocated and when reimbursement is expected. The General Assembly has an expectation of receiving such an accounting from the CMRS Board because it appears as if CMRS has a $9 million stockpile.

Mr. Edmondson said that the $9 million is accounted for. As soon as funds are expended, in the next quarter, funds come back into the account. The funding for counties is separated on a volume usage basis.

Senator McDaniel commented that it looks as if funds are not accounted for and an accounting from CMRS is needed. He said that CMRS has three open balances from 2012.

Mr. Edmondson said that such balances are usually due to equipment issues.

In response to a question from Senator McDaniel as to whether this is a good time to consider consolidation of 911 services given Kentucky's movement to VIPER [Voice Over Internet Protocol for Emergency Response], Mr. Edmondson said that CMRS's practice is to consider consolidation.

Senator McDaniel commented that the provision of 911 services is a public expectation, and that he looks forward to seeing the CMRS accounting statement.

Representative King commented that the Logan and Todd county fiscal courts had to expend funds to continue to deliver 911 services. She asked if CMRS has enough grant funding allocated to these counties to fully provide 911 services and how much more it would need to allocate so that fiscal courts would not need to subsidize 911 services.

Mr. Edmondson said that he doubts that there will ever be enough grant funding to keep up with the demand for 911 services. Cell phone 911 service is now expected by the public. In counties that do not have the population base to support the cost of providing 911 services, it is likely that grant money must be supplemented.

In response to a question from Representative King, Mr. Edmondson said that counties are reimbursed immediately by CMRS for designated allocations for 911 services.

Senator Higdon commented that Marion County never implemented E-911 and inquired whether CMRS advises small counties to contract with KSP to provide 911 services.

Mr. Barrows replied that in the past, as funding became tighter, a number of counties began to look into such contracts. Some counties have asked KSP to take over provision of 911 services. CMRS has set aside grant money for six counties, which will be obligated until those counties ask for reimbursement.

In response to a question from Senator Higdon as to whether the provision of 911 services for texting and other technologies may soon be required and whether a statewide plan is needed for such services, Mr. Barrows said that the FCC is driving those requirements. If a PSAP requests such services, the FCC requires that the wireless company provide them. An issue is whether a local PSAP can handle such 911 services.

Senator Higdon asked whether the CMRS Board charges point-of-sale fees or collects the fees from the prepaid wireless companies and whether CMRS can choose which one it uses without legislation. Mr. Barrows said that the FCC uses one of three methods. The first method would be to decrement 70¢ worth of minutes each month per phone. The second method uses a formula that divides the prepaid revenues by $50, which ideally gives the number of subscribers, which is multiplied by 70¢. The third method allows the CMRS Board, by regulation, to adopt a method for collecting fees. The board has not adopted a regulation because the General Assembly would unlikely to approve it.

In response to further questions from Senator Higdon, Mr. Barrows said that wireless providers pay for free cell phones and collect fees from Internet sales of cell phones.

Mr. Barrows answered a question from Senator Higdon by explaining that approximately 2.5 percent of the $25 million collected annually is used to pay administrative costs. CMRS has four staff currently.

In response to a question from Senator Westerfield, Mr. Edmonson said that since CMRS's grant funds are being disbursed, no further legislation is needed at this time.

Senator Westerfield asked Mr. Edmondson to provide him with a scoring rubric, along with the scores for the counties he represents.

Senator Buford asked whether CMRS could provide the General Assembly with the names of the regions that are too small to provide 911 services on their own and should therefore contract with KSP to provide such services.

In response to questions from Representative DeCesare, Mr. Edmondson said that Kentucky counties whose 911 centers are PSAP-certified are eligible for CMRS grants. Mr. Barrows listed Marion, Magoffin, Owsley, Robertson, Nicholas, and Martin as counties that did not implement E-911.

Major John Bradley appeared before the committee.

In response to a question from Representative Simpson, Major Bradley said that in its contracts to provide 911 services through interlocal agreements, KSP establishes costs inconsistently.

In response to additional questions from Representative Simpson, Major Bradley said that KSP is working to formalize its interlocal agreements in order to create a fair funding model. Although KSP can apply for grants, it has not received many and grants are a very small part of its budget.

In response to a question from Representative King, Major Bradley said that a review of KSP's 911 services is ongoing via an emergency medical dispatcher who specializes in working with centers that contract with the state police. He noted that the state police need to give latitude to localities.

In response to an additional question from Representative King, Major Bradley said that KSP is not ready to take over all 911 dispatches in Kentucky. It would first have to assess all PSAPs in Kentucky, which would be a radically different approach from the way 911 services are currently handled.

Senator Higdon commented that he is glad to hear that KSP is working on a real cost basis in providing 911 services.

In response to questions from Senator Higdon, Major Bradley said that KSP includes retirement costs in its accounting statements, although it has no way to recoup retirement costs.

KSP's involvement in providing 911 wireless services has evolved over time. He noted that providing 911 services is not a money-making business, although at first, a number of local entities had envisioned it that way. 911 services are very expensive. Citizens expect a high standard of care but are not necessarily willing to pay for it. KSP tries as much as possible to provide 911 services through local dispatch centers.

In response to a question from Senator Higdon, Major Bradley said that there are 114 certified PSAPs in Kentucky.

Judge/Executive Rob Rothenburger next appeared before the committee.

Judge Rothenburger noted that although there are 4 million cell phones in Kentucky, the real question is the number of devices that are capable of Next Gen technology. Most PSAPs in Kentucky would welcome an audit and inquired of Mr. Knowles whether he can provide an update on the number of PSAPs that have surpluses. There are six counties in Kentucky's VIPER project. VIPER will eventually connect all PSAPs, thus regionalizing and saving money.

In response to a question from Representative DeCesare, Mr. Barrows said that it is undecided whether CMRS can collect 70¢ from iPads and other tablet devices that have phone capability. The statutes may not cover 911 services for these devices. This should be examined.

Judge Rothenburger commented that he is seeing calls from such devices escalating in his region.

In response to a question from Representative King, Judge Rothenburger said that Kentucky counties are freely participating in consolidating 911 services because they see it as a way to save money and offer services more efficiently. Such consolidation will result in fewer delays in response time to 911 calls. Counties are sharing only some aspects of 911 service provision, such as equipment. The CMRS Board just received a grant of $180,000. Without that grant, the six counties could not have consolidated.

In response to a question from Senator Buford, Judge Rothenburger confirmed that some phones billed to other states are utilizing 911 services in Kentucky.

Mayor Steve Austin appeared before the committee.

Mr. Austin said that 911 services are split into operational costs and revenue costs. His area is collecting $500,000 less revenue than the cost needed to provide 911 service. Henderson is losing land lines very quickly and that it increased its land line fees by 25¢ per year to make up for those losses. There have been attempts to put 911 service costs on water bills but courts have ruled against this practice. He noted two ways in which the General Assembly can be of help: (1) allow cities and counties to create special taxing districts to offset the costs of 911 services, and (2) allow cities and counties to put 911 costs on tax bills to forestall concerns about lawsuits.

In response to a question from Senator Higdon, Mr. Austin said that the counties around Henderson are unwilling to participate in regionalization of 911 services.

Representative Adam Koenig said that he sponsored a bill last year that would have allowed cities to put 911 fees on wireless bills. He asked whether such legislation would help Henderson. Mr. Austin replied that the cost of cell phone service is the same, but that Henderson receives less money for providing cell phone 911 services.

Mr. Butler appeared before the committee.

Mr. Butler said that Kenton County funds its 911 services through a parcel fee. In response to questions from Representative Simpson, Mr. Butler said that Kenton County does not have a surplus. There are no court challenges to the county's fee structure.

In response to questions from Representative King, Mr. Butler said that Kenton County has eliminated land line fees. Eighty percent of 911 calls come from wireless devices. Landowners are financing all cell phone use.

The meeting adjourned at 11:55.

## PUBLIC PENSION OVERSIGHT BOARD

**Minutes**

August 28, 2014

**Call to Order and Roll Call**

The meeting of the Public Pension Oversight Board was held on Thursday, August 28, 2014, at 2:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representatives Brian Linder; Tom Bennett, Michael Bowling, Jane Driskell, James M. "Mac" Jefferson, and Sharon Mattingly.

Guests: Russ Wright, Retired; Paul VanWinkle and Stacy M. Roland, Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities; Richard Beliles, Common Cause Kentucky; Dwight Price, Kentucky Employers' Mutual Insurance; Lowell Reese, Kentucky Roll Call; Dave Adkisson, President, Kentucky Chamber of Commerce; and Jessica Malloy, Attorney General's Office, on behalf of Robyn Bender.

LRC Staff: Brad Gross, Greg Woosley, Bo Craycraft, and Marlene Rutherford.

**Approval of Minutes**

Co-Chair Yonts moved that the Minutes of May 27, 2014, be approved, which was seconded by Representative Linder. The minutes were approved without objection.

Co-Chair Bowen announced the appointment of Alison Stemler, Shelbyville, Kentucky, who is an attorney with Frost Brown Todd. Ms. Stemler will be filling the unexpired term of Ronald J. Harris, Jr., who has resigned. Ms. Stemler was not present at the meeting.

Co-Chair Bowen said the June Monthly Performance Update provided by Kentucky Retirement Systems was contained in the meeting packets. He also provided a summary of the previous meetings and topics the board had reviewed and discussed.

Co-Chair Bowen said that the board will be reviewing legislative proposals for possible recommendations to the General Assembly. There will be a year-end review of financial and actuarial data, and the board will set goals for the 2015 work plan. He encouraged members to make recommendations to be included in the year-end report, such as identifying efficiencies and highlighting any changes recommended for consideration.

**Semi-annual Kentucky Retirement Systems Investment Review**

Bill Thielen, Executive Director and David Peden, Interim Chief Investment Officer, Kentucky Retirement Systems discussed the investment program of KRS.

Mr. Thielen discussed the current litigation with Seven Counties. The case is on appeal to the U.S. District Court. KRS has asked the court, or the bankruptcy judge, whichever appropriate, to send the case to the U.S. Sixth Circuit Court of Appeals, but no action has been taken. Another lawsuit filed in Kenton Circuit Court by the City of Fort Wright challenges the KRS investment program and its investments in alternatives. A hearing the KRS motion to dismiss has been delayed until September 25. KRS is pursuing action with Bluegrass Mental Health/Mental Retardation, Kentucky River Community Care, and Frontier Housing that is in the discovery process. The KRS Retiree Health Committee will meet September 4, and the KRS Board will meet September 11. KRS will set the rates and plan components for the under-65 retiree health plan and the Medicare eligible health plan for 2015. As a result of the Bank of America settlement, KRS will receive $23 million that will be allocated to the pension trusts based on the losses realized.

Co-Chair Bowen introduced Bo Craycraft, who has joined LRC staff to work with PPOB in an advisory capacity.

Responding to a question by Co-Chair Yonts regarding the Bank of America settlement, Mr. Thielen said KERS hazardous and nonhazardous, CERS hazardous and nonhazardous, and SPRS pension trusts will each receive an allocation from the settlement based on the original investment by each trust and the amount of funds lost. The KERS nonhazardous pension fund will receive about $8.4 million of the settlement, and the remainder will be spread among the other pension funds. The litigation resulted from the actions surrounding the 2008 financial crisis, specifically the private-label mortgage-backed securities and whether they were safe mortgages when investments were made.

Senator Higdon asked, and Mr. Thielen agreed, to place PPOB members on the KRS e-mail notification for KRS meetings.

Mr. Peden discussed asset allocation and fiscal year-end performance of KRS and he provided an update on securities litigation claims. He defined and identified institutional investors, which are banks, insurance companies, pension plans, endowments, and foundations. Managing the investment portfolio of an institution is done in the context of the liabilities. This requires factoring how much money is needed to pay benefit payments each month and how much liquidity is needed to meet those benefit payments. The objective is not simply making the most money; rather, the investment has to be protected on the downside while earning a reasonable return and paying benefits. To determine asset allocation, the first task is to perform an asset liability study, the objective of which is to assist the plan in selecting an efficient target allocation given the plan's objectives, which are the risk tolerance, implementation constraints, and other factors. Efficient is defined as the lowest risk portfolio given a level of return or the highest return for a given level of risk.

The other objective is to measure or understand the range of possible investment return outcomes that the portfolio faces over various timeframes and the associated risks. Asset allocation is the output of the asset liability study, and it is a tool intended to capture the expected return, risk, and correlation to other asset classes over the long term in order to select a portfolio that best meets the needs of the plan. Mr. Peden said that it is important to understand that asset allocation explains 90 percent of the performance of the portfolio. Information was contained in the overview reflecting the funded ratio percentages for all five plans for both the pension and insurance for the five year asset/liability study period beginning in 2009 and ending in 2013. This information will be updated for fiscal year 2014 as KRS begins its next liability study with the consultant, RV Kuhns. The results should be available in early 2015.

In response to a question by Co-Chair Bowen as to why the funded ratios are not the same across the different plans under KRS, Mr. Peden said that the plans have different cash flow streams from the different employers and different liability profiles. Mr. Thielen said that each of the plans has a different benefit structure, and therefore, different liabilities, and that the money contributed over the last 20 years has differed greatly between the KERS and CERS plans. CERS employers have paid 100 percent of the actuarially required contribution (ARC), whereas other employers have not. The liabilities are different, the cash flows are different, and the age of the workforce is different. Mr. Thielen said that historically KRS has had the same asset allocation for each plan but began to diverge in 2009 because the funding level of KERS nonhazardous had gotten low and, along with other factors, KRS has begun to create different asset allocations for each plan to reflect differing liabilities.

Mr. Peden discussed some of the factors for determining risk tolerance for a pension plan. One factor is the health of the plan. An institution is less able to take risk for a plan that is more poorly funded. Another factor is the age of the workforce. A young workforce plan can take more risk, while an older plan needs to take less risk. The state workforce age is at an all time low, one that has not been seen in four decades, and the ratio of retirees to current workers dictates that KRS take less risk. The plan sponsor's ability and willingness to pay is another factor that determines risk, as well as how correlated the revenue generating ability of the state, cities, and counties are to the economy. If the economy goes down, investments potentially go down, and KRS will need more money at a time when the employers have less ability to contribute to the system. This is another factor that suggests KRS take less risk.

Mr. Peden discussed different types of risk. The main measurement of risk when investing is standard deviation, also called volatility, or the uncertainty of the expected return. The next risk to consider is the investment shortfall, or the risk of not meeting the minimum acceptable or necessary return. There is also drawdown risk, which is the risk that the portfolio drops in value, such as a rapid, violent drop as in October, 1987 or the financial crisis of 2008. Business risk is the risk that a money manager fails and has to return money to investors because of poor skills running the business, or having key employees leave, or having an owner buy an existing manager. Business risks are important to understand because, although it is a part of the relationship with every external manager, this risk is more prevalent in the hedge fund area.

Responding to a question by Co-Co-Chair Bowen concerning the timeframe for drawdown risk and its impact, Mr. Peden discussed the time it takes for a market to recover. The stock market is well above where it was in 2007 at its peak and before the beginning of the downturn, but the NASDAQ only got back to its high point a couple of years ago. Each asset class of the KRS portfolio has its own risk. The objective is to guard against drawdown risk of each asset class to prevent an overall portfolio drawdown, since it still has to earn the assumed 7.75 percent rate of return. As an example of drawdown risk, Mr. Thielen said that KRS suffered a 17 percent loss in 2008-09 of almost $2 billion.

Mr. Peden said that the other risk factor is the inflation risk, which is the diminished real value of the investments.

The capital market assumptions are the backdrop of asset allocation, which he defined as the expected return and expected standard deviation, or risk, of each asset class, and the correlation of those asset classes to one another. Capital market assumptions are developed using a combination of economic expectations going forward in combination with historical returns, while factoring in return to the mean.

The different asset classes perform differently in the business cycle, and KRS is attempting to construct a portfolio that will perform well throughout the entire business cycle. Public equity is the best way to participate in upside economic growth of the economy. It does well when the economy is expanding and poorly when the economy is slowing. Although this asset class is often thought of as safe, it is one of the most risky asset classes because of its volatility. Fixed income has subsets that perform differently in different phases of the business cycle. For example, treasuries do well in recessions, high yield does well in all parts of the cycle except recessions, and investment grade credit does better in recessions than high yield but has more interest rate sensitivity and is subject to losing money when rates rise late in expansion. Although fixed income is the least risky asset class as a whole, it also has the lowest return.

Treasury bonds should protect in recessions, but they lose money when interest increase. Absolute return, also known as hedge funds, is not really an asset class, but is rather a group of various strategies that generally have statistical commonalities, such as low correlation with the equity and fixed income markets, low standard deviation, or risk, and high Sharpe ratios, or return per unit of risk. KRS does not use hedge funds to out earn equities; instead, hedge funds are used because KRS wants to have the best chance of earning 7.75 to 8 percent return with a fixed income level of risk, and they are part of the mix to accommodate that goal.

Real return as an asset class contains strategies and security types with one commonality: all real return investments should do well in inflationary or rising interest rate environments. The strategies range from Treasury Inflation Protected Securities (TIPS), to hard assets such as real estate, timber, or drug royalties. Not all real return strategies are considered alternative investments, with TIPS as one example. Investments in this category may also include strategies where KRS loans money to individuals, as a bank would, in the agriculture or mining industries, and has the underlying asset (such as crops, equipment, land, minerals) as collateral for the loaned funds.

Private equity is an asset class where the investor collects an illiquidity premium over private equity. If the illiquidity premium does not exist, KRS would not invest in private equity. A secondary benefit of private equity is access to smaller companies or companies that are too small to go public, but that have $25 to $50 million in earnings before interest, taxes, depreciation, and amortization (EBITDA) or revenue.

Venture capital is also an available asset class, but it does not fit the profile for KRS of consistent returns with low risk. Other strategies in private equity are debt-related strategies, such as where a company is in distress and the debt is purchased in order to gain control of the company for rehabilitation, and private debt, which is when the investor essentially replaces the bank when it has abandoned making certain loans, such as loans to the agriculture or mining industry.

Mr. Peden discussed a histogram of asset class characteristics showing a dispersion of monthly returns from July 1, 2004, to June 30, 2014. The histogram shows the riskiness of an asset class. The wider the dispersion may be, the more risky the asset class. He contrasted the tight pattern of fixed income investments with low volatility, and asset classes that have widely variable returns, or high volatility. He reviewed the return profile of hedge funds and said that visually it looks much more like the aggregate bond index than it does the S&P index, at least from a risk perspective.

When different asset classes are added that are uncorrelated with one another, the standard deviation is decreased for the total portfolio. This diversification is mathematically based. It is important to understand that correlation is measured from negative one to positive one. Negative one means two assets are perfectly negatively correlated, so that when one goes up the other goes down by the same amount. When two assets are perfectly correlated or positive one, they move exactly the same, so there is no benefit to having both asset classes in a portfolio because they are adding the same exposure to the portfolio. The ideal situation is to have all asset classes and all investments in the portfolio with a correlation of zero, which would indicate that they are bringing unique exposures to the portfolio. Standard deviation is not the weighted average of two assets. It is possible to have two risky assets in combination and result in a low risk portfolio if the correlation between the two assets is negative or low.

Mr. Peden said that consistency of return is important: the lower the standard deviation, the higher the geometric average. It is the goal of KRS to have consistent returns, which in the long term will result in the highest average return. Consistent returns are important especially for the KERS nonhazardous plan because more funds are paid out in benefits than contributions are received. The more asset classes and investments added to a portfolio that are uncorrelated with one another the greater the risk is driven down without affecting the targeted return of the portfolio.

The annualized data for asset class characteristics and the correlations were provided for the past five and ten years and since 1990. The average return for the S&P 500 since 1990 has been 9.6 percent and the risk has been 14.8 percent. Mr. Peden discussed the KRS return experience in hedge funds since KRS began building out the hedge fund program in September 2011 and thru June 2014. The return in hedge funds has been 7.65 percent annually, which is at 7.75 percent or 8 percent target. However, the standard deviation has been 3.19 percent, which is close to the performance of fixed income since 1990. The correlations to high yield indexes, S&P 500, and treasuries have exceeded expectations allowing hedge funds to perform exactly as intended, with targeted rates of return with low risk. During this same three year period, the S&P 500 has returned 24.5 percent with a standard deviation of 7.44 percent, but since 1990 it has returned 9.6 percent with a 14.8 percent risk. This suggests at some point that public equity is going to revert to the mean, or long-term average, and experience both lower returns and greater risk. KRS is trying to build a portfolio that will perform over an entire business cycle and to factor in all the risk profiles of each asset class given the status of a pension plan with a relative inability to take on a large amount of risk.

The most common approach to portfolio construction is Mean Variance Optimization (MVO), which is the mathematical method of determining allocation mix using the capital market assumptions of return, risk, and correlation for each asset class to target the highest possible return for a given level of risk or to find the allocation mix that offers the lowest level of risk for a targeted return.

Mr. Peden emphasized that KRS does not build its portfolios to chase returns and is constantly aware of risks, and KRS must be self-sufficient because it does not have the luxury of an entity coming in and bailing it out. The choice of asset classes is mathematically based using the projected return targets and the goal of minimizing risks. Alternatives have an important role in achieving that goal and allowing KRS to keep standard deviation low and exposure to drawdown risks at a minimum.

In response to a question by Co-Chair Bowen concerning the mathematical equation and asset allocation decisions between different plans under KRS management, Mr. Peden said that this is a part of the asset allocation process. KRS knows that the liability profiles, or what is known will need to be paid out in benefit payments, for the KERS nonhazardous and hazardous plans are different from one another, and when going through the asset liability study the amount of contributions made and the benefit payments paid are factored in by the consultant and that profile factors into what asset allocation KRS can comfortably have for each system. The KERS nonhazardous plan this year will have a different asset allocation than the other systems because of its funding status and cash flow constraints.

Mr. Peden stated that any problems with the KERS nonhazardous plan do not affect the ability to manage the assets for CERS. CERS' performance is a result of the asset allocation for CERS and that the KERS funding status has played no role in CERS' performance. KRS had good performance for the 2014 fiscal year, and there were no negative performing asset classes. Performance was led by public and private equity and performed at 22.45 percent and 22.71 percent respectively. This year was the first year after the financial crisis that private equity has reached its stride and started returning the performance numbers that were expected, and more importantly cash flowing back in terms of companies being sold, money returning to investors, and venture capital with companies going public. High yield fixed income and core fixed income performed well, even with a negative performance in May/June because of rising interest rate fears. Absolute return/hedge returns performed very well with an approximate 8 percent return with low risk, but real estate returns were disappointing. This is partly because KRS' assets are young, whereas the index contains more mature assets.

Responding to a question by Co-Chair Bowen, Mr. Peden stated that KRS does not anticipate which asset class will perform the best over a 1, 2, or 3 year period of time and jump in and out of asset classes. Rather, because KRS always has its funds invested, the goal is to build a plan that will consistently make the returns expected in any market environment. However, the capital market assumptions that go into the models change, and this is reflected in the asset allocation over time.

In response to a question by Representative Linder as to how losses are balanced against the pay out for benefits and whether it is measured against future pay outs based on the benefits offered today, Mr. Peden said that this is factored into the liability calculations, so that the net current value of the assets versus the net present value of future liabilities results in the funding ratio. Actuarially, KRS knows the projections that are factored into the asset liability study to get an understanding of cash flow needs, and that the 7.75 percent benchmark rate of return comes from the calculation of those future obligations. Mr. Thielen said that the investment consultant works with the actuary and the actuarial assumptions that are developed to model asset allocation, and if those assumptions are met, the necessary funds will be available to pay the liabilities for the future, amortized over a 30 year period.

In response to questions by Senator Higdon concerning return on investment when dealing with the state, Mr. Peden said he has spoken with local public and private sector entities that have real estate development needs and discussed the possibility of financing or partnering to build a facility. KRS feels this is a good investment and will consider a way to safely invest in those types of projects. Mr. Thielen stated it was his understanding that in the late 1970s or early 1980s, KRS invested directly in real estate, lost a lot of money, and subsequently got out of that type of investment. By lowering the assumed rate of return there is increased pressure on contributions that need to be made by the employers to meet benefit payments and expenses. Each year the actuary performs a valuation looking at the experience of KRS and where the assets stand in relation to liabilities given the benefit structures created and the demographics of participants. The unfunded liability changes every year depending on the experience in the previous year. If the assumed rate of return is exceeded that will help decrease the unfunded liability. If more employees retire than expected and benefits will need to be paid out over a longer period, this will have a negative impact on the unfunded liability.

Responding to questions and comments by Mr. Bowling, Mr. Thielen said that the actuaries had not reviewed the experience of the funds since 2008, and based on the experience over the period 2008 through 2013, recommendations were made as to how KRS should change the assumptions. For instance, one of the assumptions is payroll growth, which is currently set at 4.5 percent, but because that growth has not been realized over the experience study period, a reduction in the payroll growth assumption was recommended. Changes in other assumptions have also been recommended, but none of the recommendations has yet been adopted by the KRS board.

In response to questions by Mr. Jefferson regarding the asset liability study and the experience study, Mr. Peden said that the asset liability study is conducted every five years. Mr. Thielen stated that the experience study is required by statute to be conducted once every ten years, but KRS has chosen to have one performed at least every five years. An experience study was done after only three years following the 2008-2009 financial crisis. Responding to a follow up question as to why KRS does not wait to conduct the asset liability study until after the board resolves the question of assumption changes, Mr. Thielen stated that there had been discussion of putting off the asset liability study, but that KRS would take into account the actuarial recommendations in the study. Mr. Peden stated that the board is looking for more information on the investment side before making a determination on the recommendations.

In response to questions by Mr. Jefferson regarding investment experience for the Board of Trustees, Mr. Thielen said the obligation to appoint persons with investment experience lies with the Governor. KRS has no role in approving or checking the background of any appointee. The current board structure includes a banker and an economics and finance professor.

Responding to a question by Co-Chair Bowen whether the 7.75 percent assumption rate decreasing to 7.5 percent was industry standard or unique to Kentucky, Mr. Thielen said that the average of public pension plans in the nation in terms of the assumed rate of return is about 7.62 percent.

Mr. Peden discussed the benchmarks of each asset class and noted that each is an industry standard, publicly available and indexed benchmark. The total fund benchmark is the weighted average of all the respective asset class benchmarks, which requires additional data to calculate.

He discussed the securities litigation policy and stated that if there is a potential claim less than $10 million, KRS follows the normal process and files a claim to participate with the broader class action. These policies are set by the KRS board in conjunction with legal counsel. If a potential claim is over $10 million, KRS seeks outside counsel. If it is determined that the claim is worth pursuing individually, a second outside legal counsel will be sought, or the Attorney General's Office will be consulted, to pursue the claim.

Co-Chair Yonts asked about the Bank of America settlement and the amount of loss. Mr. Peden stated that the $23 million settlement made KRS whole. Ms. Malloy indicated she had participated in the lawsuit for the Attorney General and that the loss was $21.7 million.

Responding to questions by Ms. Driskell and Ms. Malloy concerning monitoring class action suits, Mr. Peden indicated that there is a contract for those services with the KRS custodian and a third party servicer, Riskmetrics. Mr. Thielen said that all external advisors are hired after an RFP process. Reinhard, Boerner, VanDeuren has been used for assistance with claims over $10 million for the last three years. Typically, the contracts are for three years with three annual renewal periods. Mr. Peden indicated that Riskmetrics has been the monitoring provider since 2008-09 and receives an annual fee for the service. Since 1997, there have been 918 total claim recoveries with a total recovery of over $25.5 million.

Discussing fees by asset class, Mr. Peden stated that KRS has historically disclosed the asset management performance fees in total in the Comprehensive Annual Financial Report (CAFR). Through a series of open records requests earlier this summer, KRS determined that it could break down the fees by asset class and give that information out publically, as well as in the CAFR going forward, which shows total fees by each respective asset class. The data shows there has been an increase in fees, but this is because the total value of the assets has increased: the greater the amount of assets under management, the more fees will be paid. Another factor driving increasing fees is diversification. About ten years ago, KRS had approximately ten asset managers. As more money is given to an asset manager, the fee rate will be lower because managing the fund requires the same amount of work for a portfolio. Because more recently KRS has begun diversifying its portfolio, the amount of assets given to any single manager is smaller, and therefore the overall fee rate has increased.

Mr. Peden discussed the use of performance fees in certain asset classes, which can produce higher fees when the manager's performance exceeds certain targets and both KRS and the manager are "sharing" the "profit" or upside performance of an asset. These performance fees create an alignment of interests, where the manager is incentivized to create greater returns to capture the performance fees, but overall this type of fee results in the asset class costing more money to manage. For every investment manager brought to the investment committee, the fee for that manager is disclosed both in the memorandum and verbally in the committee and is part of the decision for selecting a manger. While there has been a lot of misinformation about fee disclosures and accusations that information is being withheld from the board by KRS staff, the fees are always disclosed. The board knows exactly what the fees will be for an investment manager. The investment committee factors in the fee information when it decides to hire a manager.

In response to a question by Co-Chair Bowen if a fee ever stopped the process of hiring an investment manager, Mr. Peden stated that staff had been asked to try to negotiate a lower fee. If an investment manager had a fee outside the norm for a particular asset class, staff would not bring it before the investment committee for consideration. Each manager fee begins at the market fee for the asset class. KRS attempts to negotiate a lower fee from that point for each investment in the portfolio.

Responding to questions by Co-Chair Yonts and Co-Chair Bowen on the impact of a requirement for the disclosure of the individual fees, Mr. Peden stated that if KRS is required to publicly disclose the fees paid, KRS will lose the ability to negotiate lower fees, or at least would have a diminished ability to negotiate lower fees. This is because a manager would no longer have an incentive to give KRS a lower fee than to anyone else because it will re-price its book of business to all other clients. Mr. Thielen said that there is a "most favored nation" clause in most of the contracts, which requires that if a lower fee is given to someone else, then that lower fee must be given to KRS. This is likely true for many other pension plans. Mr. Peden said KRS may piggyback off other plans in the country that have better negotiating power than KRS in getting special deals with certain managers. Disclosure on an individual manager or investment basis could impair the ability to utilize this strategy.

In response to a follow-up question by Co-Chair Yonts, Mr. Peden stated that if full disclosure is required, the cost of investing will increase and the benefits returned will decrease at an annual cost of $17 million dollars in increased fees to the systems. Mr. Thielen stated that KRS would disclose more fee information if required by the General Assembly. Mr. Peden said that some people have called for KRS to invest with the lowest fee managers, but KRS only invests in managers in the top quartile of performers because, while fees are important, it is more important for a manager to deliver the performance expected for an asset class or investment. Ultimately, there would be no reason to invest at a fee discount if the savings were overwhelmed by negative performance or negative performance versus the benchmark.

In response to questions by Senator Higdon concerning fee percentage, Mr. Peden said that the total fees divided by assets resulted in a fee of about 34 basis points, which represents the amount paid to investment managers. The only investment expense netted from the gross return is the cost of consultants. Every other expense is part of the KRS administrative budget.

Responding to a point raised by Co-Chair Bowen, Mr. Peden said that if greater disclosure is required on an on-going basis, some managers will not want to work with KRS, some availability of certain asset classes will be diminished, and other managers would charge a higher fee. However, the current roster of managers would probably not be affected because they would likely not terminate existing contracts on the basis of new fee disclosure requirements. As new managers are chosen, the greater fee disclosure and potential increased fees would be felt.

Responding to a question by Ms. Mattingly, Mr. Peden said that the investment manager contracts are confidential. Mr. Thielen said that confidentiality clauses exist in most of the contracts KRS has with investment managers, but a stated exception to the open records law would prevent those contracts from being disclosed.

In response to a question by Ms. Driskell as to how other states handle the disclosure issue, Mr. Peden stated it was 50/50 as to how fees are disclosed based on what the entity feels is in the best interest of the system, retirees, and taxpayers. Mr. Bowling asked LRC staff to look into how other states disclose pension system fees.

Mr. Thielen said that, with the passage of 2008 House Bill 1, there are additional transparency requirements. There was a clause included in KRS 61.645 that specifically states that KRS can retain the confidentiality of this type of information if disclosure will interfere with the ability to negotiate fees in the investment program.

Ms. Malloy asked about the affect of disclosure on asset management. Mr. Peden said he had not researched the issue but was fairly confident about how it would affect KRS. He offered to research how other states' disclosure requirements have or have not impacted or affected their pension systems; however, he said it would be difficult to make a judgment as to impact unless there is data on the particular plan's fee costs before and after disclosure requirements were implemented.

Richard Beliles, Common Cause of Kentucky, stated that the Kentucky Teachers Retirement System has no fund managers but had better returns on investments than KRS had with fund managers.

**Kentucky Retirement Systems Investment Update**

Brad Gross, Committee Staff Administrator, Public Pension Oversight Board, updated the board on peer comparisons of returns and asset allocations. For the period ending June 30, 2014, the rate of return for the KERS nonhazardous fund, net of fees, was 15.6 percent. The desire of KRS is to meet or exceed the rate assumption over the long term and the investments have done so over the one, three, and five year periods, while over the ten year period, including the 2008-2009 market decline, the returns were slightly less than the assumed rate of return. For the one-year term, they have exceeded their policy benchmark in the pension fund and are slightly below that benchmark in the insurance fund. One of the questions that arises is how KRS compares with other public pension funds. LRC staff is looking at the other states. As of June 30, 2014, out of 50 state plans, 22 have reported individual one, three, five, and ten year returns. Compared to the 22 states that have reported, KRS is below the median average. KRS returns fall below the returns in a peer comparison from RV Kuhns, the KRS investment consultant, which has 67 plus plans. Bank of New York Mellon has 106 plans for which numbers are available, and the average rate of return is 17.2 percent for one year. He said that the comparison for KTRS is a preliminary number and is gross of fees, whereas KRS has a net of fee number reflected. For the one year ending June 30, 2014, KTRS earned 18.1 percent on a gross of fee basis and outperformed its benchmark.

Mr. Gross said that asset allocation has changed over time, with public pension plans shifting the types of funds invested in. Historic asset allocation for public pension funds have been in domestic and international equity, fixed income, cash, and alternatives such as real estate, private equity, real return, and hedge funds. Looking at historical data, he said that a 2012 pension and investments study indicated the average allocation of pension assets in alternative asset classes was about 19.4 percent. This is part of a larger trend. In the 1990s the equity allocations increased and transitioned from domestic to international equities. There has also been a trend away from equities into alternative portfolios. There are other studies showing similar trends, such as a 2014 Cliffwater Research study that reported an average allocation of 25 percent in alternatives at the end of 2013. PEW and Wilshire have studies on average allocation that report similar numbers for asset allocation trends.

KRS has followed a similar trend and began with private equity in 2001, added hedge funds in 2009, and recently allocated funds to real return and real estate. The alternative allocation has 10.38 percent in hedge funds, 9.96 percent in private equity, 3.86 percent in real estate, and 10.06 percent in real return. Related to peers, KRS has 34.3 percent as of June 30, 2014, in alternative assets. Real estate is considered an alternative asset for the comparison, but this asset has been present for some time, and some plans differ on whether it is an alternative asset class. Staff will continue to update the peer comparison data comparing KRS with the LRC peer, Cliffwater, and KTRS comparisons. Overall, KRS is slightly below allocation on the equity side but has a comparable fixed income and cash component and an above average alternative asset class.

Mr. Gross provided information on the KRS and KTRS return comparisons for one, three, five, ten, and twenty year comparisons. KTRS out performs KRS on the one, three, five, and ten year returns, but KRS out performs on the twenty year basis. KTRS has a higher exposure to equities, which have performed well the last few years.

KRS fees for 2013 were $45.6 million or 41.4 basis points. Compared to the KRS fees for 2013, KTRS had $31.6 million in investment fees or 19.6 basis points. One of the differences is that KTRS manages more of the portfolio internally, about 40 percent, with 60 percent managed externally, and has a substantial portion in domestic equities and some fixed income bonds that are managed internally versus KRS, which manages 14 percent internally. The asset allocation for KRS is higher in alternative assets, which typically have higher fees for investment, and in public equity and fixed income, while the allocation to alternatives is lower for at least the one year period examined.

Co-Chair Bowen asked members to study the information provided by Mr. Gross for further discussion and follow up questions at the September meeting.

Co-Chair Bowen indicated that the update on the Seven County Services lawsuit would be deferred to the September meeting.

Dave Adkisson, President of the Kentucky Chamber of Commerce, said the public pension issue is significant to the business community and important to the taxpayers. In 2006, the Chamber, the Kentucky League of Cities, and the Pritchard Committee began speaking out about pensions. The Chamber has been pleased with the progress and reforms, which have been critical in bending the curve in the out years. KTRS has suggested that it needs an additional $400 million per year to be whole, a 4 percent increase in the state's budget. The Chamber is willing to assist and partner with the board in a constructive exercise to move forward and has offered some suggestions as to resource expertise.

Ms. Driskell said she wanted to share the most recent Moody's Investor Service article about affirming Kentucky's bond rating, the discussion on the Seven Counties case, with the board and would provide it to staff for distribution.

Co-Chair Bowen asked Mr. Thielen to share the board's concerns with KRS board members.

A motion to adjourn was made by Co-Chair Yonts and seconded by Mr. Bowling. The meeting adjourned at about 4:25 p.m.

## PUBLIC PENSION OVERSIGHT BOARD

### Minutes

September 25, 2014

**Call to Order and Roll Call**

The meeting of the Public Pension Oversight Board was held on Thursday, September 25, 2014, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Brent Yonts, Co-Chair, called the meeting to order.

A roll call was not performed; however, the secretary made note of those members in attendance.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Tom Bennett, James M. "Mac" Jefferson, Sharon Mattingly, and Alison Stemler.

Guests: Brian Thomas, David Peden, and Jennifer Jones, Kentucky Retirement Systems; Jason Moseley and David Adkins, Council of State Governments; and Janna Smith, Office of State Budget Director, on behalf of Jane Driskell.

LRC Staff: Brad Gross, Greg Woosley, and Marlene Rutherford.

**Approval of Minutes**

Co-Chair Bowen moved that the Minutes of August 28, 2014, be approved, which was seconded by Mr. Jefferson. The minutes were approved without objection.

Co-Chair Yonts previewed several bills that could potentially be considered in the 2015 General Assembly. An ad hoc group appointed from the Interim Joint Committee on State Government had discussed several issues and given direction to staff on how to proceed from those discussions on a few bill drafts that may or may not be prefiled. The board will hear comments in the meeting concerning bills that were filed in the 2014 Regular Session, which could be called again in the 2015 Regular Session.

**Review of 2014 Regular Session Legislative Proposals**

Senator McDaniel discussed Senate Bill 142 and Senate Bill 216. Senate Bill 142 passed out of the Senate and the House Committee on State Government but was not voted on by the House of Representatives. Senate Bill 142 was endorsed by the Kentucky League of Cities, Kentucky State Police, Kentucky Association of Counties, Kentucky Fire Commission, Kentucky Chamber of Commerce, Kentucky Coroners Association, Magistrates Association, County Judges Association, School Boards Association, School Superintendents Association, Jailers Association, Fire Chiefs Association, County Clerks and County Attorneys, Kentucky Association of Professional Firefighters, Kentucky State Police Professional Association, and Teamsters Local 783, which handles fire and ambulance services for Louisville.

Senate Bill 2, which passed in the 2013 Regular Session, addressed the issue of "spiking," which is an end of career increase in creditable compensation. He said it is important to distinguish between creditable compensation and wages or overtime compensation. Creditable compensation that is "spiked" or increased at the end of a career has not been actuarially accounted for through the course of an employee's career. Senate Bill 2 provided that a ten percent year over year increase in compensation would result in the full actuarial value being borne by the employer of the employee. Cities and counties have started receiving bills for these increases to creditable compensation, which have varied from several hundred dollars to one in excess of two hundred thousand dollars on one employee. The full actuarial value could add as much as 156 to 352 percent of wages to the employer's contribution. As employers look at spiking for employees approaching retirement, they will not allow the employees to work those spiked hours, which means employees will not be able to work the hours and collect the wages and will not collect a pension on those spiked hours. Any federal funds associated with the overtime will have to be returned at every level from city, county, and state.

Senate Bill 142 addressed this issue. First, it excluded bona fide promotions and compensatory time from the definition of a "spike." A bona fide promotion from one position to another allows an increase in wages and is not considered a "spike." There is no penalty for a "spike" in a year following an employee being off without pay for five or more weeks, or if the employee has workers' compensation income, unpaid leave under the Family Medical Leave Act, maternity leave, or if the employee has authorized sick leave without pay. Senate Bill 142 allows an employee could continue to work the hours beyond the additional ten percent; however, if an employee went over the ten percent of creditable compensation level, the wages would still be collected, and the employee and employer would pay into the retirement system. Upon retirement, the employee contributions are refunded and the employee is not eligible for a benefit for the "spiked" portion of compensation, but the employers' contributions remain in the system and are used to offset the unfunded liability. This allows employers to permit employees to work hours beyond the ten percent level and allows the employees to work and earn the overtime pay.

Senate Bill 142 provided an appeals process for employees to protest whether a promotion was a bona fide promotion. The provisions of the bill were prospective in application and only applied to wages earned July 1, 2014 and thereafter, and the bill in 2015 would affect wages earned after July 1, 2015. Senator McDaniel said he had been contacted by countless cities, police departments, fire departments, counties, and sheriff's departments asking that the language of Senate Bill 142 be filed in the 2015 session because those employers are having to cut back employee hours to avoid the cost of "spiked" compensation. In the case of road crews removing snow in the winter, the time will be limited, and the remainder of the work will be outsourced to a private company.

Co-Chair Yonts asked Brian Thomas, General Counsel of the Kentucky Retirement Systems, to comment on any of the bills discussed, but Mr. Thomas said he would defer to Bill Thielen, Executive Director, who was not in attendance.

In response to a question by Co-Chair Bowen concerning the limit of ten percent growth in creditable compensation earned during the last five years of employment, Senator McDaniel gave an example of an employee in hazardous duty who is four years from retirement and whose retirement is based on the employee's highest three years of salary. In the last three years of employment, the employee cannot exceed more than a ten percent per year increase in creditable compensation and receive a retirement benefit on the amounts over the ten percent increase, although the key feature of the bill is that the employee can still work and be paid for those hours.

Responding to a question by Senator Higdon, Senator McDaniel explained how "spiking" in Senate Bill 2 relates to Senate Bill 142. Under Senate Bill 2, when an employee exceeds the ten percent creditable compensation growth amount, the employer pays the same actuarially required contribution for the employee up to the ten percent level, but then the employer is responsible for the full actuarial value of the retirement cost for any amounts above that level. In various scenarios, this value is an additional amount between 156 percent and 352 percent of wages.

Responding to a question from Co-Chair Yonts as to how this would affect the inviolable contract, Senator McDaniel stated that a Maryland court opinion several years ago made clear that changes that are prospective in nature, as in Senate Bill 142, do not affect any benefit that has been earned or accumulated to date, and that consequently the provisions of the bill would likely not be a violation of the contract.

Senator McDaniel also discussed Senate Bill 216. Senate Bill 216 passed the Senate in the 2014 Regular Session and was discussed in the House Committee on State Government. After an agency begins participating in the KERS or CERS, it is required to continue participating, except in limited circumstances. For example, an agency's participation in CERS may be terminated for failure to comply with the retirement laws, such as not paying the employer contribution rate, or by seeking a legal remedy, as in the case of the Seven Counties Services bankruptcy proceedings. One issue that affects agency participation is the increasing employer contribution rates, which have increased over the years from 5.89 percent of pay in 2001-02 to 38.77 percent in the latest budget for the KERS nonhazardous plan. Also, the federal government has been reviewing who should and should not be eligible to participate in government retirement plans and may render an opinion as to the eligibility of some agencies, such as nonprofits, to participate in those types of plans. KRS has had on-going litigation with agencies over the failure to pay employer contributions on groups of employees, with the bankruptcy proceeding in the Seven Counties case being a prime example.

Senate Bill 216 establishes a process where certain agencies defined by the bill may voluntarily discontinue participation in KERS or CERS, provided they pay the actuarial costs for no longer participating. The bill also provides a consistent process across KERS and CERS whereby an agency may be required by the KRS Board to discontinue participation if it is determined to no longer be eligible to participate in a governmental plan or if the agency fails to follow the requirements established for participating agencies under state law, such as the failure to pay employer contribution rates. Under the bill, if an employer wants to voluntarily discontinue participation in KERS or CERS the employer would have to: (1) submit a request to the KRS to discontinue participation; (2) pay for an actuarial study to determine the costs of the agency's discontinuation of participation; (3) pay the full actuarial costs for discontinuing participation in the system through a lump sum or by installments if KRS allows the employer to do so; and (4) establish a qualified retirement plan for the benefit of its employees. If installment payments are permitted, the installment period can be up to thirty years, with the interest rate not to exceed the assumed rate of return, and the required collateral and security for the installment payments are determined by KRS.

Senate Bill 216 identifies those entities that can or cannot discontinue participation in KERS and CERS, with mental health agencies, most quasi-state agencies, and other agencies that are nonprofit, nonstock corporations under KRS Chapter 273 being permitted to voluntarily discontinue participation. Under SB 216, if an agency ceases participation, employees hired by the agency after the agency discontinues participation would not participate in the retirement systems. Employees of the agency participating on the date the agency discontinues participation will cease participation going forward, but those employees would retain all benefits that the employee had earned to date. If an employee of an agency that discontinued participation then transitioned to a new employer that still participated in the systems, the employee would continue to accumulate service credit and any benefits under the retirement system applicable to the new employer. No employee will lose any earned benefit. There have been three legal opinions outside the system, as well as a letter from the KRS, that indicate the provisions of Senate Bill 216 do not violate the inviolable contract.

Responding to a question by Co-Chair Yonts concerning adequate security to ensure payment of the costs of terminating participation, Senator McDaniel stated that KRS has no security by ignoring the problem. As organizations are reviewed, the KRS will have to define the mechanics of how security will be provided, but at the least there are assets for many of these agencies, such as the on-going contracts from the state in the case of Seven Counties Services. Senator McDaniel said the bill addresses the issue of adequate security more robustly than what is currently provided; a $90 million unfunded liability financed over a 30 year term will reset the clock for an organization, which will reduce the amount the entity is paying for the retirement benefit. Co-Chair Yonts said that the bill may require some reference to other provisions of law for the enforcement of security and that the security interest must be better defined for the state to be fully protected since the future is unknown. He said that 30 years for repayment was problematic.

Responding to a question by Co-Chair Bowen concerning any potential bankruptcy, Senator McDaniel stated that it could be argued that currently the state is assuming more risk without an orderly exit mechanism and no security at all. He said that these recommendations are unchartered waters by working through the issues of agency participation to strike a balance of honoring commitments to employees while allowing essential services to be provided on behalf of the Commonwealth.

In response to questions from Representative Linder regarding the federal government's review of entities eligible to participate in a governmental retirement plan, Senator McDaniel stated that it would depend on the conditions, how the federal government views different types of agencies, and how it views the obligations of the employers of the Commonwealth. He deferred to KRS for other thoughts. Senator McDaniel stated that there is no timeline for the federal government to provide a review.

Brian Thomas, General Counsel, and Jennifer Jones, Assistant General Counsel, Kentucky Retirement Systems, discussed House Bill 324, a housekeeping bill that was sponsored by Co-Chair Yonts in the 2014 Regular Session and that did not pass. Co-Chair Yonts said the bill would provide flexibility to the KRS and provide for efficiencies that would reduce overhead and costs to the systems. Co-Chair Yonts asked that any changes that may have come about since the 2014 session that should be included in the housekeeping bill be brought to LRC staff's attention.

Mr. Thomas stated that the bill would allow KRS to comply with federal law and both save substantial administrative costs and improve the experience of the members in the administration of their retirement benefits. Regarding trustee elections, KRS would like to pursue the possibility of conducting the elections electronically. The cost of CERS elections is between $105,000 and $120,000, which is due to creating the ballots and mailing. The bill would allow KRS to conduct the elections electronically, thus reducing some of the costs of printing and mailing ballots by as much as fifty percent, which is a significant savings for each election. He also noted that the additional CERS trustee position that was created by Senate Bill 2 is not in sync with the other CERS elected trustees, requiring an additional CERS election with added costs, and the bill would allow for this additional position to be elected at the same time as the other trustees. The bill would also authorize the use of debit cards in place of paper checks for payment of benefits. The statute was amended in 2000 to require retirees to sign up for electronic funds transfers (EFT) or direct deposit unless the member did not have a bank account or their bank did not participate in the EFT process. Mr. Thomas stated that the majority of retirees utilize EFT; however, there are still approximately 7,500 paper checks mailed each month at a cost of approximately $35,000 per year. KRS believes that debit cards could be utilized in place of paper checks and that members would receive their benefits faster and be more secure.

Additional changes in the bill were included to address "tier 2" members who began participating in the retirement system from September 2008 through December 2013, as a result of House Bill 1, passed in 2008, and Senate Bill 2, passed in 2013. These members are traditional pension benefit structure members; however, the creditable compensation definition that applies to this group only allows a calculation of benefit if those members have five complete years of service. The experience of KRS is that some members have more than five years of service but do not meet the definition and cannot have a benefit calculated for their service and are only eligible for a refund, which KRS does not believe was the intent of House Bill 1. Mr. Thomas said that Senate Bill 2 increased the number of trustees on the KRS board. The number of members on the investment committee is set by statute, whereas the number of members on the remaining subcommittees of the KRS board are set by the board itself, and as a result of the increase in the number of trustees the number of members on the subcommittees have increased and therefore the housekeeping bill would allow an increase in the number of investment committee members from five to seven members.

In response to Co-Chair Bowen's question concerning inclusion of language in the bill that reflects that any savings derived from or identified by efficiencies should be applied to the unfunded liability, Mr. Thomas stated that any savings would ultimately be applied to the unfunded liability because a proportionate amount is taken from each trust to pay for the elections and any savings derived from the housekeeping bill would benefit each trust proportionately.

Responding to a question by Co-Chair Yonts, Mr. Thomas stated if KRS implemented a debit card type system rather than a paper check that some individuals would choose EFT directly into a bank account. Also, KRS would look at the current language of the bill to make it clear that retirees have the option to elect EFT if they do not want a debit card when switching from a paper check.

In response to a question by Senator Higdon about whether a requirement that retirement system employee pay increases be the same as other state employees pay increases should be included in the housekeeping bill, Mr. Thomas said he would defer that decision to the executive director of KRS or the chairman of the board.

For clarification and responding to a question by Mr. Jefferson, Mr. Thomas said that the Social Security Administration requires EFT of benefits but also allows a debit card. With regard to why the standards of qualification for serving on the KRS Board and investment committee and the Public Pension Oversight Board (PPOB) are different, Mr. Thomas stated that House Bill 1 amended KRS 61.645 and required some investment expertise for particular members of the board of trustees, but he could not address the standards of qualification for the PPOB. Mr. Jefferson said that there is a difference in the statutory language. If a statute was going to be changed with respect to investment committee members, it may be beneficial to look at the statutory differences between investment experience for serving on the PPOB and being a trustee of the KRS Board, which might assist the trustees in financial oversight. Mr. Thomas said KRS would review that issue. Co-Chair Yonts said that Section 15 of House Bill 324 may address some of the Mr. Jefferson's concerns relating to investment experience.

Co-Chair Yonts discussed House Bill 323 and House Bill 389, which he sponsored and were introduced during the 2014 Regular Session. The bills passed the House and were referred to the Senate Committee on State and Local Government and saw no further action. House Bill 323 gave jurisdiction over the Legislators' Retirement Plan, Judicial Form Retirement System, and the Teachers' Retirement System to the PPOB as to the benefits, administration, investments, and funding. The bill removed the prohibition on members and retired members from serving in appointed positions and modified the date for the annual report due from the PPOB to the Legislative Research Commission from December 1 to December 31 each year. Co-Chair Yonts stated that it is a policy issue of whether the legislature should require that all state-administered retirement systems be under the PPOB. He asked for discussion from PPOB and attendees.

In response to a question by Co-Chair Bowen as to how the oversight of these additional systems would function, Co-Chair Yonts stated that he did not believe there would be a need for any additional scheduling or additional meeting days. However, he the length of the agendas may increase, but PPOB would review the same strategies, assumptions, goals, investment returns, problems, and issues, and there would be some regularity of reporting by the systems to PPOB.

Co-Chair Yonts said House Bill 389 required state retirement systems to conduct an actuarial experience study at least once every five years, instead of the current ten years. From discussions, it was recommended that the study mandate be shortened and that a copy of the report on the experience study be provided to the Legislative Research Commission, and specifically to the co-chairs of PPOB.

In response to a comment by Senator Higdon regarding the individuals or firms that conduct the experience study not being the same as the actuary, Mr. Thomas stated that KRS utilizes the same actuary because it is familiar with the data. The actuary is usually changed every five or six years.

Co-Chair Yonts asked whether an actuarial audit could be cross-referenced with the experience study for accuracy or viability of the study and whether this would be beneficial. Mr. Thomas said that to his knowledge this had never been done. Co-Chair Yonts asked Mr. Thomas to look into whether an audit of the experience study would be beneficial and report back to PPOB.

Mr. Bennett said the Auditor's Office had consistently found, in the eighteen audits of school systems, that auditor rotation is an issue. When the same set of eyes is looking at information year after year, there is a tendency to miss items that may be a problem. The board may want to discuss at a future meeting.

Mr. Jefferson stated that frequently there is a bias to adjusting an assumption in a meaningful amount unless there was obvious evidence to warrant otherwise and the value of having a second set of eyes, whether it is an audit of the actuarial report or a different firm conducting the experience study, may improve the soundness of the fund. It would be a valuable resource to trustees to have another expert review of the assumptions. Even though there would be an additional cost for this additional review it could be a worthwhile exercise. As to the frequency of the actuary reports, he suggested that the statute set forth when the reports are produced and that information be shared with the General Assembly prior to a budgetary session so that information could be acted upon in the budget process, if necessary, and that KRS may have to provide the report a year earlier in order to comply. Currently, the report is generated in the summer following a session, which Mr. Thomas stated is due to the report coinciding with the end of the fiscal year in June.

Responding to a question by Representative Thompson as to whether there is a manner to measure the performance or the accuracy of an actuarial report, Mr. Thomas stated that this was the purpose of the experience study, which reviews the last five years to determine what the system has actually experienced as to benefits paid, the number of retirements initiated, and the new members into the system. All this information is compared to what was assumed to determine if the assumptions need to be adjusted.

**Monthly Investment Update**

David Peden, Chief Investment Officer of the Kentucky Retirement Systems, provided an investment update. At the outset, in reference to the earlier discussion concerning auditing, Mr. Peden stated that the Public Auditor's Office performs an audit of KRS at least every five years, which is a check of the auditor utilized by the KRS.

Mr. Peden said that in July every asset class was negative except for hedge funds, which resulted in a slow start for the fiscal year of negative eighty-three basis points. The U.S. equity markets had a sizable loss on the last trading day of July, losing two percent, which also had a substantial impact on the monthly return. In August every asset class was up except for hedge funds resulting in the total fund being up 1.39 percent versus the benchmark of 1.28 percent. U.S. public equity was up 4.3 percent, and fixed income was also up, so both interest rate sensitive assets and credit sensitive fixed income were positive. Real return was led by master limited partnerships, such as oil and gas pipelines, and toll roads, which performed well in August, being up eight percent as an investment class for the month. In the current fiscal year, KRS investments are up fifty-five basis points and are slightly trailing the benchmark set at seventy four basis points.

**Update on Seven County Services Court Case (deferred from August meeting)**

Greg Woosley, LRC Analyst assigned to the Committee on State Government and PPOB, gave an update on the Seven Counties Services court case and a summary of two other court cases with recent activity.

On May 30, 2014, the judge in the U.S. Bankruptcy Court issued an opinion in the retirement systems' adversary proceeding in which KRS asked the court to find Seven Counties Services was not eligible for a Chapter 11 bankruptcy. The judge provided an analysis of what it means to be a "person" eligible for Chapter 11 and not a "governmental unit" that would not be eligible for a Chapter 11 bankruptcy. The court found that Seven Counties Services was not a governmental unit and was therefore eligible to continue participating in the filed Chapter 11 bankruptcy. A governmental unit under the Bankruptcy Code is defined as including the Commonwealth and any department, agency, or instrumentality of the Commonwealth. The court determined that because Seven Counties Services was organized as a nonprofit corporation created by private citizens without government action, and not administered by individuals directly responsible to public officials, that it was not a department of state government.

The court also determined that Seven Counties Services did not qualify as an agency because community mental health centers were intended to be an alternative to the use of direct state agencies, and that through their creation and the manner they were handled by the state they were treated separate and apart from state government. The court was swayed by the fact that Seven Counties Services' employees were not under the state merit system and were not governed by the salary schedules applicable to state employees, and there were no personnel regulations governing those employees. The court also determined that Seven Counties was not an instrumentality, relying on the case of *Las Vegas Monorail*, because Seven Counties did not have any of the three features normally found in a governmental entity: (1) the power to tax; (2) the power to exercise eminent domain; and (3) sovereign immunity. The court said that there was a low level of state control over Seven Counties Services' operations and that it operated independently from state government, even though there was some cabinet oversight.

The court stated the manner in which the state had designated and treated Seven Counties Services over the years suggested it was not an instrumentality of the state and that the state treated them separate and apart from the state. Applying the definitions, the court determined that Seven Counties Services was not a governmental unit and therefore could continue with the bankruptcy. Mr. Woosley said that a side holding of the court was there was an executory contract between Seven Counties Services and KRS, and that Seven Counties Services could reject the contract in a bankruptcy proceeding and seek to terminate its obligations under the contract. The judge expected that Seven Counties Services would follow the normal process of proceeding through a Chapter 11 bankruptcy, leaving open the possibility that some type of plan for determining how Seven Counties Services removes itself from the contract would be formulated. The KRS board had voted to appeal the decision, and the judge did not object to KRS' request to move the appeal directly to the U. S. Sixth Circuit Court of Appeals. KRS is waiting to see if the Sixth Circuit accepts the appeal.

In response to a question by Co-Chair Yonts, Mr. Woosley said there was no clear guidance on when the Sixth Circuit would make the decision on whether it would review the case.

Co-Chair Yonts pointed out that since the bankruptcy proceedings some of the contracts of Seven Counties Services had been vetoed by the Government Contract Review Committee, which were sustained by the Governor, it is possible that other contracts may be terminated under the 30 day cancellation clause included in the standard government contracts.

Responding to a question by Co-Chair Yonts concerning the allocation of funds by the secretary of the Cabinet for Health and Family Services to the boards for mental health organizations, Mr. Woosley stated that the court was careful to analyze what the degree of state control was over Seven Counties Services and determined even in light of the statutory framework that it was a low level of control. The court noted that the state did not have the power to seize assets owned by the private corporation, but it took note of the statutory scheme. The court was not swayed by the scheme of oversight to determine that Seven Counties Services was a governmental unit. If the state exercised the scheme, it would show that the Commonwealth has some degree of control over certain aspects of the operation.

Mr. Woosley updated the Board on the Bluegrass Oakwood and Oakwood Community Services court case. The case was scheduled for oral argument at the Court of Appeals in September, but the arguments were cancelled by the Court and the case had not been rescheduled at the time of the meeting.

He also summarized an agency participation case that was filed last fall by Frontier Housing, Inc. and Housing-Oriented Ministries Established for Service, Inc. Both entities provide housing assistance for low and moderate income families in eastern Kentucky, east central Kentucky, and southeast Kentucky. The organizations requested to be participants in CERS in 2002 and were admitted by the KRS Board. In the fall of 2013 the organizations filed a petition for declaration of rights in Franklin Circuit Court and argued they are nonprofit corporations that do not meet the definition of a county contained in KRS 78.510(3), which is a prerequisite for participation in the CERS. KRS filed a motion to dismiss, which was denied by the court, and the case will now proceed through discovery.

The last case update was for a case involving the City of Ft. Wright, which filed a class action lawsuit against the KRS Board in Kenton Circuit Court. The City of Ft. Wright asserts that the CERS is investing in assets not approved by the statutes, KRS 78.790 and KRS 386.020. The city is requesting declaratory and injunctive relief. The petition was filed in June 2014, and a motion to dismiss was filed in July by KRS. The case was set for a hearing on the motion to dismiss at the end of September, but the hearing was rescheduled to October 2, 2014.

The next meeting of the PPOB will be October 23, 2014, unless there are conflicts. Co-Chair Yonts said that potential items for discussion will be suggestions for recommendations to be included in the annual report to be filed with the Legislative Research Commission on December 1. Potential discussion might include KRS discussion on issues, input from interest groups such as the Kentucky League of Cities, Chamber of Commerce, Kentucky Associations of Counties, Public Retirees, Government Retirees, Kentucky Education Association, and Transportation Cabinet employees discussing the "spiking" bill.

Co-Chair Yonts asked that suggestions on topics to be discussed in the next couple of months and items that need to be included in the annual report be shared with staff, and that an analysis as to why they should be included be provided along with pros and cons. The November meeting will be devoted to finalizing the report due December 1.

Co-Chair Bowen stated that he believed the Board was making strides in addressing the issues and encouraged the members to be creative in their thinking and to submit any ideas or suggestions to Co-Chair Yonts or himself.

Without objection, the meeting was adjourned at approximately 11:42 a.m.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes**

September 3, 2014

**Call to Order and Roll Call**

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 3, 2014, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair;

Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Jimmy Higdon, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Tom McKee, Terry Mills, Ryan Quarles, and Jonathan Shell.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Mr. Brian Murphy, Ms. Angela Blank, and Ms. Beth Herbert, Governor's Office of Agricultural Policy; Dr. Mark Evers, Markey Cancer Center; and Dr. Don Miller, Brown Cancer Center.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The August 6, 2014 minutes were approved, without objection by voice vote, upon a motion by Representative Quarles and second by Representative Mills.

**Kentucky Lung Cancer Program Report**

Dr. B. Mark Evers, Director of the Markey Cancer Center at the University of Kentucky, and Dr. Donald Miller, Director of the Brown Cancer Center, University of Louisville, presented the annual report on the Kentucky Lung Cancer Program, which receives a tobacco settlement funds appropriation.

Dr. Evers discussed the mission of the Markey Cancer Center, the burden of different types of cancers on Kentuckians, the bodily damage that tobacco use can cause, and the tobacco-related death and cancer toll on state residents. He discussed the cancer center's mission and expressed his support of a higher cigarette excise tax and smoke-free policies, the importance of the National Cancer Institute designation and the return on investment of the Lung Cancer Program funding. He discussed continuing cancer-related research related to treatments, screening, and testing of patients. Future plans are for the center to reach NCI comprehensive status, continue to improve the program, expand education and training, and recruit additional specialists.

Responding to Representative Stone, Steve Byars, Legislative Liaison, discussed some of the space needs and uses at the university.

In a response to Representative Denham, Dr. Evers said the state has made progress in smoking cessation efforts. He said that one-third of the state is affected by non-smoking ordinances. There is an emphasis in eastern Kentucky on smoking cessation.

Responding to Representative Denham, Dr. Evers listed efforts that could help reduce smoking rates. These efforts include increasing the excise tax on cigarettes, having more smoke-free areas, and instituting lung cancer screening projects.

Responding to Senator Higdon, Dr. Evers said that medical maladies in a small percentage of patients may be linked to radon. Senator Higdon mentioned awareness about the dangers of radon.

Senator Webb discussed the link between pulmonary disease and air quality, and also environmental factors in the incidence of cancer. She mentioned research being done in West Virginia and in the Pennsylvania. Dr. Evers responded that Markey has a medical affiliate in Ashland.

Responding to Senator Hornback, Dr. Evers said there is a correlation between high cancer rates in eastern Kentucky and smoking. There are high cancer rates in other states, but that region of Kentucky is particularly high.

Responding to questions from Senator Hornback and Representative McKee's questions about vapor products such as electronic cigarettes, Dr. Evers said he was worried about the potential impact of the products on young people. Vapor products come in flavors such as cherry and bubblegum. Senator Hornback described the problem that refillable vapor products present. Dr. Evers responded to Representative McKee that research continues to be undertaken regarding vapor products. He mentioned the likelihood that vapor products are harmful.

Both physicians responded to Senator Gibson, who asked how insurance companies address the newer medical technologies. According to Dr. Miller, there are standard guidelines regarding medical procedures that can be used in dealings with insurance companies.

Dr. Miller said that Kentucky leads the nation in age-adjusted cancer death rates. The state is falling behind the nation in cancer mortality. He discussed some of the transitional research Brown Cancer Center relating to cancer treatment, noting the success of a treatment, called AS1411, in a renal cell cancer afflicting one of the center's patients. He described work being done to create a breath analysis implement to detect early signs of lung cancer. Dr. Miller discussed the progress being made by the cancer center and the Owensboro Cancer Research Program toward a tobacco-based HPV vaccine and a tobacco-based oral vaccine to protect against cholera toxin. He discussed the work of Kentucky BioProcessing in the development of zMapp, an antibody developed from tobacco plants and used against the Ebola virus epidemic in West Africa. He discussed the computerized cancer data collection in Kentucky, described the development of cancer treatment, termed PFK 158, from its discovery in 2004 until the clinical trials, and acknowledged the importance of the "Bucks for Brains" initiative, which was created by the legislature as a part of higher education reform.

Responding to Co-Chair Hornback, Dr. Miller described the center's work in genomics. A group of researchers at Brown Cancer Center have discovered a way to "switch off genes," and those treatments will be tested in the next year and a half.

Responding to Co-Chair Stone, Dr. Miller described some of the center's cutting edge work, such as creating new drugs through research and the breast and lung cancer treatment programs. Dr. Miller responded to Representative McKee that patients from outside the state come to the Brown Cancer Center for specialized treatments.

**Governor's Office of Agricultural Policy**

Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy, summarized the project funding decisions by the Agricultural Development Board (ABD) during its August meeting.

Mr. Neaveill discussed tobacco settlement funding allocations for the previous months under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and Shared-use Equipment programs. Mr. Neaveill responded to Representative Stone that he was not aware of any dead poultry disposal programs. In addition, Mr. Neaveill said that available county funding stood at about $11 million.

Mr. Neaveill reviewed statewide or regional projects receiving funding approvals from the board. Those included: Crittenden County Board of Education, $3,811 for a school horticulture program; $320,500 to the Department of Agriculture's Kentucky Proud program to continue the Restaurant Rewards initiative through the end of the year; and $7.5 million to the Kentucky Agricultural Finance Corporation for KAFC's low interest agricultural loan program.

Mr. Neaveill responded to Senator Hornback's question about the growth of the Restaurant Rewards initiative by indicating the available funding for incentives to restaurants that buy Kentucky Proud products. The board has established some lifetime limits to businesses seeking the incentives.

In response to Co-Chair Hornback, Mr. Thomas said that food products can carry the Kentucky Proud label so long as products are processed in Kentucky. There has been discussion in the Department of Agriculture about creating a higher level designation for foodstuffs grown and processed in the state.

In response to Senator Gibson, Mr. Thomas said that indicating that some farmers' markets items sold to be produced in the states and some do not.

Referring to the ADB-KAFC funds transfer, Senator Webb said there is very little the agricultural development fund money in eastern Kentucky. Mr. Thomas discussed meetings the agency has had in eastern Kentucky. Senator Webb said that ADB-KAFC is not reaching certain demographics. She mentioned the need to connect with younger people through the FFA and universities, and she said that farmers are "aging out." Mr. Thomas said that legislation passed previously required county council memberships to change periodically. Senator Hornback pointed out the difficulty in getting young people actively involved in seeking the agricultural development fund cost-share loans. He said that outreach can occur, but motivation is needed.

Mr. McCloskey detailed the financial standing of KAFC, loan applications by county, and funding by KAFC loan category. KAFC has almost $33 million in principal outstanding. There are 376 active loans and 67 others that have approved, but the funds not disbursed. In addition, he spotlighted some successful projects by loan category. Most of KAFC's agriculture loans are made in participation with lending institutions located throughout the state.

Responding to Senator Parrett, the speakers discussed the loans deemed uncollectible, which total almost $1.3 million. Mr. Thomas said a "big write-off" was for a dairy heifer fattening or finishing enterprise that had financial problems.

In a response to Senator Higdon, Mr. McCloskey said there are funds available that have not been loaned.

In response to Representative McKee, Mr. Thomas described how the program has been modified through the years. Some loan limits have changed, and at least one loan category has been reduced. The young or beginning farmer loan category is the most active.

Documents distributed during meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes**

October 1, 2014

**Call to Order and Roll Call**

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 1, 2014, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Jimmy Higdon, and Robin L. Webb; Representatives Mike Denham, Tom McKee, Terry Mills, Ryan Quarles, and Jonathan Shell.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Brian Murphy, and Ms. Angela Blank, Governor's Office of Agricultural Policy; Ms. Kimberly Richardson and Ms. Johnna McHugh, Division of Conservation; Ms. Sandy Gruzesky and Commissioner Steve Hohmann, Department of Natural Resources.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The September 3, 2014, minutes were approved, without objection by voice vote, upon a motion by Representative Mills and second by Representative Denham.

**Governor's Office of Agricultural Policy**

Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, Governor's Office of Agricultural Policy, summarized the project funding decisions by the Agricultural Development Board (ABD) during its September meeting.

At the request of Co-Chair Hornback, Mr. Thomas explained the differences between the Master Settlement Agreement payments Kentucky receives by virtue of a 1998 settlement between states and major tobacco companies, and the Tobacco Transition Payment Program (TTTP) or tobacco quota buyout, which ends this year after being in effect for a decade. Mr. Thomas said quota holders will receive a final small TTTP payment later this year.

Mr. Thomas discussed the MSA and a settlement reached earlier this year that resolved disputed claims between tobacco companies and states extending from 2003 to 2012. The settlement should provide a "measure of certainty" for the MSA payments in the immediate future.

In response to Senator Gibson, Mr. Thomas discussed the water and sewer project bonds supported with MSA funds. The debt service is about $28-$30 million per year. Water and sewer funding are paid through grants to local entities, not loans. Changing from a grant process to a payback process would be a policy decision by legislators. Co-Chair Hornback said there are other funding options, such as bonding at the local level, for water and sewer projects.

Mr. Neaveill discussed tobacco settlement funding allocations for the previous months under the County Agricultural Improvement (CAIP) and Shared-use Equipment programs, and summarized the cost-share grants awarded under the On-Farm Energy Program. Responding to a question from Co-Chair Stone about dairy farms leading the list of grants awarded, Mr. Thomas said the energy funds were sought by dairy farms for variable speed motors, improved lighting, energy-efficient water heating systems, and energy-efficient milk cooling systems. Responding to Representative Mills, Mr. Thomas said that a large percentage of funds awarded are used to upgrade existing systems.

GOAP reported on two projects that were awarded funding in the September ADB meeting: the Carlisle County Extension District Board, $50,000 in Carlisle County tobacco funds to be used with other funding to help build a new agricultural marketing and education center; and the University of Kentucky Research Foundation, $441,301 in state funds for a two-year viticulture program.

In a response to Representative Quarles, Mr. Neaveill said any wine produced under the viticulture program would be marketed within the confines of the University of Kentucky, not outside the university.

Mr. Neaveill explained a funding denial for the Kentucky Vineyard Society, which had sought almost $678,000 in tobacco funds to operate the organization and fund the UK viticulture endeavor. The project was denied because of inadequate spending benchmarks and lack of impact on the industry.

Responding to Co-Chair Hornback, Mr. Neaveill described the Kentucky Vineyard Society and the other groups that foster the wine industry.

**Division of Conservation**

Ms. Kimberly Richardson, Director, Kentucky Division of Conservation, reported on the Kentucky Soil and Water Quality Cost Share Program, which has received almost $112 million in tobacco settlement appropriations spanning over a decade.

Ms. Richardson discussed the history and purpose of the program, how it is implemented through conservation districts, its funding levels, the status of funding and implementation in 2014-2015, and leveraging the state cost share dollars with federal funds to undertake other initiatives such as the Green River Conservation Reserve Enhancement Program and the non-point source pollution grants. She said the review of best management practices is a constant process.

In response to Co-Chair Hornback, Ms. Richardson explained the shared cost process for agricultural runoff. Cost share rates are a maximum of 60-75 percent of the actual installation cost of a practice, not to exceed $7,500 per year for agronomic practices or $20,000 per year for animal waste practices.

Ms. Richardson said that, for 2014-2015, 1,872 applications for approximately $13 million were received. She said her office is taking a close look at the program and has formed a study group made up of several agency representatives.

Ms. Richardson referred to the new Regional Conservation Partnership Program (RCPP), which was in the new Farm Bill and included steps for form regional partnerships and also included funding for watershed areas. In response to Senator Higdon, she said the regional conservation partnerships will focus on livestock runoff.

Responding to Senator Webb, Ms. Richardson explained how the partnership process will work. There is a plan to undertake outreach before launching into programs. Senator Webb expressed concern about the guidance the United States Department of Agriculture will issue and who ultimately determines compliance. Ms. Richardson said she would report back on the specifics.

Responding to Co-Chair Stone, Ms. Richardson said the ratio of 48,806 applications received to 15,318 applications approved for the soil erosion and water quality cost share funds over the life of the program was the norm each year, depending on the funding level. She said that the quality of the requests is a factor.

In a response to Co-Chair Hornback, Ms. Richardson said 66 conservation districts benefit from a local millage tax.

Senator Hornback lauded the division and indicated the agency is supportive of farmers. He said there are "bad actors" in the state who need to be monitored by the division.

Responding to Representative McKee, who had looked at a list of project funding commitments by county, Ms. Richardson speculated why the number of projects and funding would vary, even though counties border each other. She mentioned the possibility of individual county promotion or the availability of other programs in counties. She said that the project ranking system might need to be reviewed.

The documents distributed during the meeting are available with all meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

# Health industry,

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Indiana, Illinois, Tennessee and Virginia – is $1.46.

Rep. Jeff Greer, D-Brandenburg, co-chair of the committee and a small-town insurance agent, said he was proud Kentucky continues to control the cost of workers' compensation insurance.

"I think that is impressive, because maybe other than West Virginia, we have such a huge mining exposure which is really dangerous work when you think about workers' compensation. We are going in the right direction there. I think our companies in the commonwealth are doing a much better job in loss prevention."

Clark said a persistent challenge to the industry is the number of people committing insurance fraud.

"I hoped that as the economy recovered that it would plateau, but that doesn't seem to be the case," she said.

Last year alone, Clark said the insurance department received 1,686 fraud referrals that resulted in 86 criminal convictions. She said the majority of insurance fraud cases are occurring in Jefferson County.

"We have had issues with a lot of staged automobile accidents," said Clark.

She attributed the staged wrecks to residents addicted to painkillers seeking prescriptions for opiates from pain clinics.

Clark said the Kentucky General Assembly's passage of House Bill 1 in 2012 seemed to be one of the only factors that have slowed the growth of staged car wrecks. The legislation focused on the regulation of pain clinics and prescription drug abuse in Kentucky.

# 2015 Prefiled Bills

**BR 7 - Representative Kelly Flood (05/30/14)**

AN ACT relating to public benefit corporations.

Amend KRS 14A.3-010, 271B.1-400, 271B.2-020, 271B.6-260, 271B.7-400, 271B.8-300, 271B.13-020, and 271B.16-210, and create a new section of Subtitle 11 of KRS Chapter 271B to establish public benefit corporations.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 11 - Representative Diane St. Onge (06/04/14)**

AN ACT relating to drone surveillance.

Create a new section of KRS Chapter 500 to define "drone"; prohibit a law enforcement agency from using a drone to gather evidence or other information; provide exceptions; prohibit use of evidence obtained in violation; provide that the Act may be cited as the "Citizens' Freedom from Unwarranted Surveillance Act."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 14 - Representative Diane St. Onge (06/04/14)**

AN ACT relating to preserving the right of Kentuckians to own and use firearms.

Create new sections of KRS Chapter 237 to declare legislative intent; invalidate and nullify all federal laws and regulations restricting ownership or possession of firearms; direct the General Assembly to take all appropriate action to safeguard Kentuckian's rights to possess firearms in accordance with the second Amendment to the Constitution of the United States and Section 1 of the Constitution of Kentucky; amend KRS 527.040 to add persons who have been dishonorably discharged from the Armed Forces of the United States and persons illegally or unlawfully in the United States to the list of persons who shall not possess firearms.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 19 - Senator Gerald A. Neal (07/16/14)**

AN ACT relating to the abolition of the death penalty.

Create a new section of KRS Chapter 532 to abolish the death penalty and replace it with life imprisonment without parole for inmates presently sentenced to death; amend various sections of the Kentucky Revised Statutes to eliminate the term "capital offense" and replace it with Class A felony; amend KRS 532.030, relating to authorized dispositions for felony offenses, to permit imprisonment for life without parole and imprisonment for life without parole for 25 years for offenses formerly denominated as capital offenses; amend KRS 533.010, relating to probation, to prohibit probation for a person sentenced to life without parole or life without parole for 25 years; amend KRS 640.040, relating to penalties for juveniles convicted of felony offenses, to authorize imprisonment for life without benefit of parole for 25 years, but not life imprisonment without benefit of parole, for a Class A felony which was formerly a capital offense; repeal various statutes relating to imposition of the death penalty.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 20 - Senator Gerald A. Neal (07/16/14)**

A CONCURRENT RESOLUTION establishing the Task Force on the Costs of the Death Penalty in Kentucky.

Establish a task force to study the costs of administering the death penalty in Kentucky; establish membership of task force; provide that the task force is to study the costs to the state and local governments related to administering the death penalty in all phases of the criminal justice system and the number and outcomes of death-eligible cases; require the task force to submit a report to the Legislative Research Commission by December 1, 2015.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 21 - Senator Gerald A. Neal (07/16/14)**

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to allow persons convicted of a felony, other than felonies designated by the General Assembly, the right to ; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 22 - Senator Gerald A. Neal (07/16/14)**

AN ACT relating to offender reentry.

Amend various sections in KRS Chapter 335B relating to employment and licensure of persons convicted of crime to narrow the class of offenses to which the chapter applies; add consideration of the passage of time since the commission of the offense to the criteria considered in making licensure decisions; delete language relating to a hiring or licensing authority's subjective view of an ex-offender's rehabilitation; require a connection between the offense and the licensure category before a licensure denial is issued; repeal, reenact, and amend KRS 335B.060 to exempt peace officers and other law enforcement personnel as well as licensure categories preempted by federal law; repeal KRS 335B.040, relating to denial of license on ground of abuse of good moral character.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 30 - Representative Diane St. Onge (07/02/14)**

AN ACT relating to the valuation of motor vehicles for property tax purposes.

Amend KRS 132.485 to clarify that the "rough trade-in" value or "clean trade-in" value shall not be used to determine the standard value of a motor vehicle.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

**BR 31 - Representative Diane St. Onge (07/11/14)**

AN ACT relating to individual income tax.

Create a new section of KRS Chapter 141 to allow an extension of time for filing a refund claim for an individual who: received an airline payment amount and transferred any portion of the amount to an IRA according to Section 1106 of the federal FAA Modernization and Reform Act of 2012, Public Law 112-95; filed an amended return with the Internal Revenue Service excluding the airline payment amount from federal gross income, received a refund of the federal income tax based upon the amended return and filed an amended return with the Department of Revenue requesting a refund,was denied a refund of Kentucky income tax based on KRS 134.580, and received a refund of the federal income tax based upon an amended return filed; require certain documentation to be filed with the amended return; allow the amended return to be resubmitted on or before December 30, 2015.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

**BR 34 - Representative Stan Lee (08/05/14)**

AN ACT relating to interscholastic extracurricular activities.

Create a new section of KRS Chapter 158 to authorize participation in a public school interscholastic extracurricular activity by a private school student when the private school does not offer the interscholastic extracurricular activity; establish criteria for participation therein.

(Prefiled by the sponsor(s).)

**BR 35 - Senator Reginald Thomas (06/25/14)**

AN ACT relating to oaths.

Amend KRS 6.072 to require witnesses appearing before a committee to take an oath prior to giving testimony.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

**BR 36 - Senator Reginald Thomas (07/08/14)**

AN ACT relating to general principles of justification.

Create a new section of KRS Chapter 503 to incorporate the "no duty to retreat" provisions elsewhere in the chapter; amend KRS 503.050, 503.055, 503.070, and 503.080 to require a reasonable belief that defensive force is necessary before it is justified; change the term "great bodily harm" to "serious physical injury" as used throughout the Penal Code; amend KRS 503.060 to require an initial aggressor to retreat before the use of force can be rejustified; prepal KRS 503.120.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 37 - Senator Reginald Thomas (09/12/14)**

AN ACT relating to deferred deposit transactions.

Amend KRS 286.9-010, relating to deferred deposit transactions, to define "annual percentage rate," "consideration," and "interest"; amend KRS 286.9-100 to delete the service fee of $15 per $100 loan and establish a tiered maximum annual percentage rate based on the face amount of the deferred deposit check; provide that making a deferred deposit transaction in violation of the maximum interest provisions is an unfair, false, misleading and deceptive practice in violation of the Consumer Protection Act and subject to its rights and remedies; prohibit a licensee from engaging in deceptive practices to evade the requirements of Subtitle 9 of KRS Chapter 286; amend KRS 286.9-102 to require a licensee to conspicuously display interest charges for services; create a new section of Subtitle 9 of KRS Chapter 286 to provide that knowing violation of the maximum allowable interest rate provisions shall be deemed a forfeiture of the entire interest for the transaction and that the person who paid the interest, or his or her legal representative, may recover twice the amount paid in any action against the lender if commenced within two years of the deferred deposit transaction.

(Prefiled by the sponsor(s).)

**BR 40 - Representative Thomas Kerr (07/10/14)**

AN ACT relating to grandparent visitation rights.

Repeal and reenact KRS 405.021 to grant visitation to grandparents if it is in the child's best interest based on listed factors.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 56 - Senator John Schickel (07/02/14)**

AN ACT relating to trafficking in heroin.

Amend KRS 218A.1412 to require that persons who violate that section by trafficking in heroin be charged as Class C felons for the first offense and to require that those persons serve at least 50% of the sentence imposed for the violation before being released on probation or parole.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 57 - Senator John Schickel (07/03/14)**

AN ACT relating to school funding.

Amend KRS 157.310 to clarify the intention of the General Assembly that no mandate be placed on the public schools without program funding to carry out the mandate; require legislation relating to the public schools that includes a fiscal note pursuant to KRS 6.955 or a state mandate pursuant to KRS 6.965 to include provision for funding that is adequate for compliance with the mandate; clarify that no school district shall be compelled to comply with mandated enactments of the General Assembly that do not provide adequate funding.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

**BR 58 - Representative Brent Yonts (07/31/14)**

AN ACT relating to the transfer of academic credit.

Amend KRS 164.2951 to require the Council on Postsecondary Education to implement a dual credit course policy; amend KRS 164.583 to require acceptance of articulated credit courses at all public colleges and universities.

(Prefiled by the sponsor(s).)

**BR 64 - Representative Kim King (08/21/14)**

AN ACT relating to sex offender registrants.

Amend KRS 17.545 to prohibit sex offender registrants from being present on the grounds of a publically owned playground without advance written permission.

(Prefiled by the sponsor(s).)

**BR 65 - Representative Kim King (08/21/14)**

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any appropriation or revenue-raising measure voted upon in the Senate or House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for appropriations or revenue measures; require committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

**BR 66 - Representative Kim King (08/21/14)**

AN ACT relating to foreign law.

Create new sections of KRS Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.

(Prefiled by the sponsor(s).)

**BR 67 - Representative Kim King (08/21/14)**

AN ACT relating to school notification of persons authorized to contact or remove a child.

Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or remove the child from school grounds.

(Prefiled by the sponsor(s).)

**BR 68 - Representative Kim King (08/21/14)**

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

**BR 69 - Representative Thomas Kerr (07/15/14)**

AN ACT relating to the inheritance tax.

Amend KRS 140.070 to redefine class A beneficiaries to include daughters-in-law and sons-in-law for purposes of the inheritance tax; provide that the amendment applies to estates of decedents dying on or after July 1, 2015.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

**BR 70 - Representative Hubert Collins (08/05/14)**

AN ACT relating to the disposal of vehicles forfeited to law enforcement agencies.

Amend KRS 218A.420, regarding the disposition of forfeited property, to clarify that any vehicle forfeited which is contaminated with methamphetamine shall not be used, resold, or salvaged for parts, but shall instead be destroyed or salvaged for scrap metal; clarify that determination of methamphetamine contamination is made by law enforcement agencies; clarify that the presence of prepackaged materials or other products or precursors not subject to extraction shall not qualify a vehicle as being contaminated.

(Prefiled by the sponsor(s).)

**BR 71 - Representative Hubert Collins (08/05/14)**

AN ACT relating to the valuation of motor vehicles for property tax purposes.

Amend KRS 132.485 to clarify the standards for appraising the value of motor vehicles that are 20 years old or older for property tax purposes, by providing that no vehicle of said age shall be presumed to have been maintained or restored to either the original factory condition or any otherwise classic condition, and also by establishing the standard value of said vehicles; provide that the Act shall apply to motor vehicles assessed on or after January 1, 2016.

(Prefiled by the sponsor(s).)

**BR 79 - Representative Rocky Adkins (07/22/14)**

A CONCURRENT RESOLUTION honoring the aviation and aerospace industry upon being the top industry exporter in the Commonwealth, and requesting an evaluation of the aviation infrastructure and the industry's current employment and total economic impact upon the Commonwealth.

Honor the aviation and aerospace industry upon being the top industry exporter in the Commonwealth; request the Transportation Cabinet and the Cabinet for Economic Development to evaluate and report on the aviation infrastructure, the industry's current employment, and the total economic impact on the Commonwealth.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Economic Development and Tourism

**BR 80 - Senator Jimmy Higdon (07/22/14)**

AN ACT relating to the safety of minors and declaring an emergency.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle to a person who enters a vehicle with the good faith belief that a minor is in imminent danger of harm if not removed from the vehicle; encourage Transportation Cabinet to implement education on children left in vehicles; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 82 - Senator Reginald Thomas (08/18/14)**

AN ACT relating to education.

Amend KRS 157.200 to provide that programs for special education students extend through the school year in which they reach their 22nd birthday; amend KRS 159.990 to conform.

(Prefiled by the sponsor(s).)

**BR 84 - Representative Darryl T. Owens (08/08/14)**

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to restructure the voting restrictions contained therein relating to felons and persons with mental disabilities; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 85 - Senator Christian McDaniel (09/08/14)**

AN ACT relating to the disclosure of public retirement information.

Amend KRS 61.661, 161.585, and 21.540 to require the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, Legislators' Retirement Plan, and the Judicial Retirement Plan to disclose upon request the retirement benefit information of current and former members of the General Assembly including their name, status, and projected or actual retirement benefit payments.

(Prefiled by the sponsor(s).)

**BR 90 - Senator Gerald A. Neal (07/16/14)**

AN ACT proposing an amendment to

Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to allow persons convicted of a felony other than treason, intentional killing, a sex crime, or bribery the right to vote after expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 96 - Representative Thomas Kerr (08/25/14)**

AN ACT relating to stalking.

Amend KRS 403.720 to include stalking in the definition of “domestic violence and abuse,” thereby allowing protective orders to be issued.

(Prefiled by the sponsor(s).)

**BR 97 - Representative Thomas Kerr (09/09/14)**

AN ACT relating to public school standards.

Create a new section to KRS Chapter 158 to prohibit the Kentucky Board of Education and the Kentucky Department of Education from implementing the English language arts and mathematics academic content standards developed by the Common Core Standards Initiative and the science academic content standards developed by the Next Generation Science Standards Initiative; require the state board to recommend new content standards to school districts and schools after consultation with the Council on Postsecondary Education; require public involvement in standards development; clarify the authority of the local board of education to adopt standards which differ from or exceed the standards approved by the state board; clarify that the school-based decision making councils shall develop policies based upon the standards adopted by the local boards of education; prohibit state officials from ceding control of education content standards and assessments; prohibit withholding of state funds from school districts for adopting different academic content standards; amend KRS 156.070 to limit disclosure of personally identifiable information; direct the Kentucky Board of Education to require that the Department of Education and all school districts adhere to transparency and privacy standards when outsourcing data and Web-based tasks to vendors; clarify vendor contract requirements; amend KRS 158.6453 to permit a local board of education to supplement the state board-approved academic content standards with higher and more rigorous standards and require school councils to use them to fulfill curriculum policy requirements; amend KRS 160.345 to clarify school council curriculum policy authority.

(Prefiled by the sponsor(s).)

**BR 116 - Representative Fitz Steele (08/14/14)**

AN ACT relating to coal severance revenues.

Amend various sections in KRS Chapter 42 to distribute 100% of coal severance revenues among the coal producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090 and 164.7891 to make conforming changes; repeal KRS 42.490.

(Prefiled by the sponsor(s).)

**BR 117 - Representative Fitz Steele (08/14/14)**

AN ACT relating to dextromethorphan abuse.

Create new sections of KRS Chapter 218A to prohibit any person from possessing one gram or more of pure dextromethorphan or dextromethorphan that has been extracted from solid or liquid form; prohibit sale of products containing dextromethorphan as the only active ingredient to individuals younger than 18; require any person selling a product containing dextromethorphan to require that prospective buyers show a photo ID and sign a document stating the customer is older than 18 before purchase; create an affirmative defense for the retailer if a minor utilizes a fraudulent ID; prohibit individuals younger than 18 from misrepresenting their age and from utilizing a fraudulent ID to purchase or obtain dextromethorphan; establish penalties for violation.

(Prefiled by the sponsor(s).)

**BR 118 - Representative Fitz Steele (08/14/14)**

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 132 - Representative David Floyd (09/12/14)**

AN ACT relating to the valuation of motor vehicles for property tax purposes.

Amend KRS 132.485 to clarify the standards for appraising the value of motor vehicles that are 20 years old or older for property tax purposes, by providing that no vehicle of that age shall be presumed to have been maintained or restored to either the original factory condition or any otherwise classic condition, and also by establishing the standard value of those vehicles; provide that the Act shall apply to motor vehicles assessed on or after January 1, 2016.

(Prefiled by the sponsor(s).)

**BR 138 - Representative Jeff Hoover (08/20/14)**

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to restore the right to vote to persons convicted of a felony after service of their sentence, expiration of probation, or final discharge from parole, unless the offense was treason, intentional murder, rape, sodomy, sexual abuse of a child, bribery in an election or another crime specified by the General Assembly; delete language in the 1891 Constitution referring to persons as “idiots and insane persons”; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 168 - Representative Joni L. Jenkins (09/08/14)**

AN ACT relating to controlled substances.

Amend KRS 218A.050 to add the substance acetylfentanyl to the list of Schedule I controlled substances.

(Prefiled by the sponsor(s).)

**BR 175 - Representative Larry Clark (09/11/14)**

AN ACT relating to districts of innovation.

Amend KRS 160.107 to allow a waiver or modification of the statewide assessment system for schools participating in a district of innovation plan, under specific conditions; allow a district of innovation to use student assessments other than those required by the state board, under specific conditions.

(Prefiled by the sponsor(s).)

**BR 178 - Representative Ron Crimm (09/11/14)**

AN ACT relating to the promotion of organ and tissue donation.

Create a new section of KRS Chapter 141 to establish the employers' organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act.

(Prefiled by the sponsor(s).)

**BR 180 - Representative Ron Crimm (09/11/14)**

AN ACT relating to sales and use taxation.

Amend KRS 139.570, relating to sales and use tax, to increase the maximum amount of vendor compensation to $250 in any reporting period; EFFECTIVE July 1, 2015.

(Prefiled by the sponsor(s).)

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# LRC Publications

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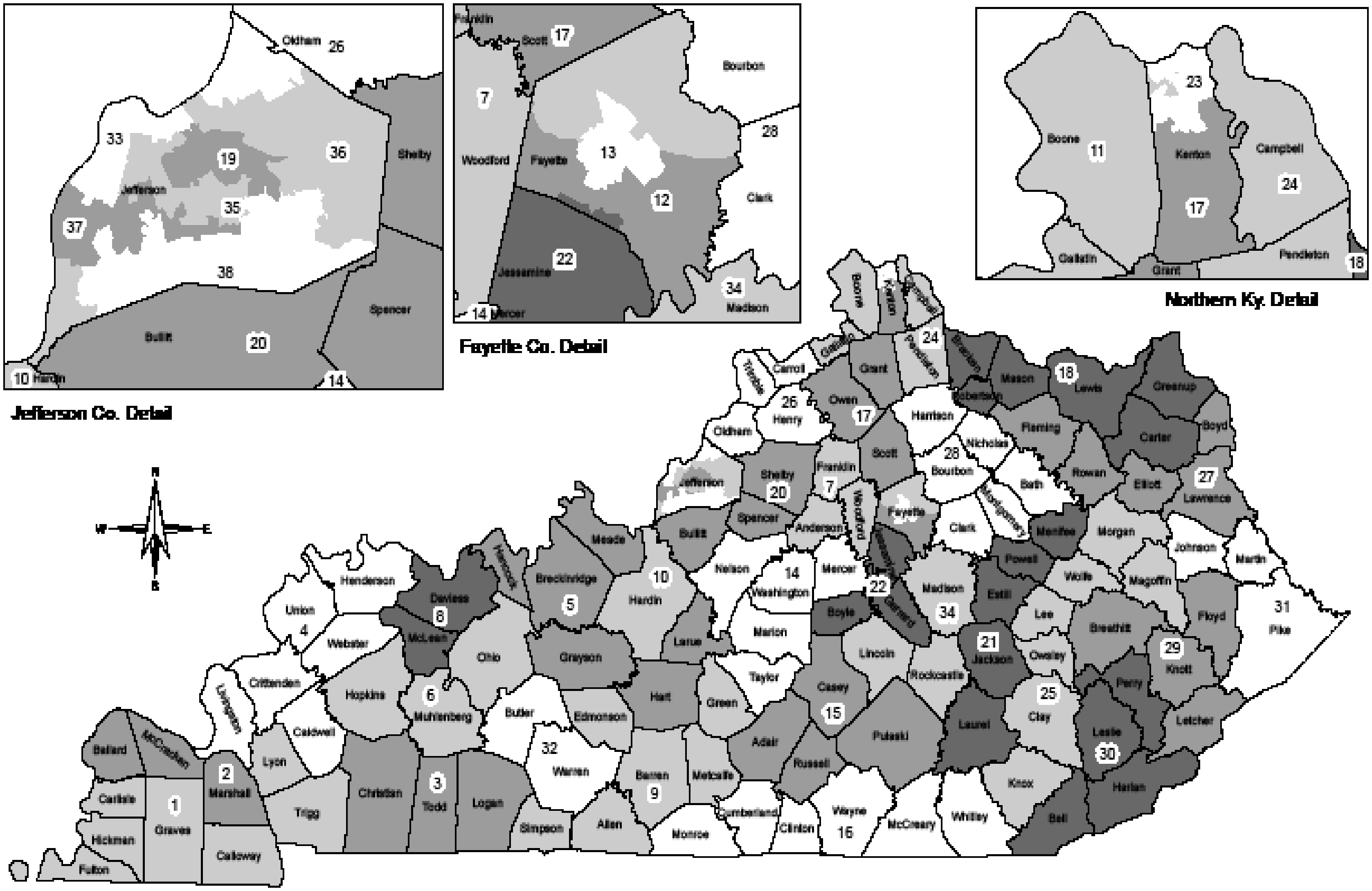
COMMONWEALTH OF KENTUCKY
UNITED WE STAND DIVIDED WE FALL




# 2002 Kentucky Senate Districts

**Senate Plan (SH001A09) became law (KRS 5.101 - 5.138) January 31, 2002, with enactment of House Bill 1.**

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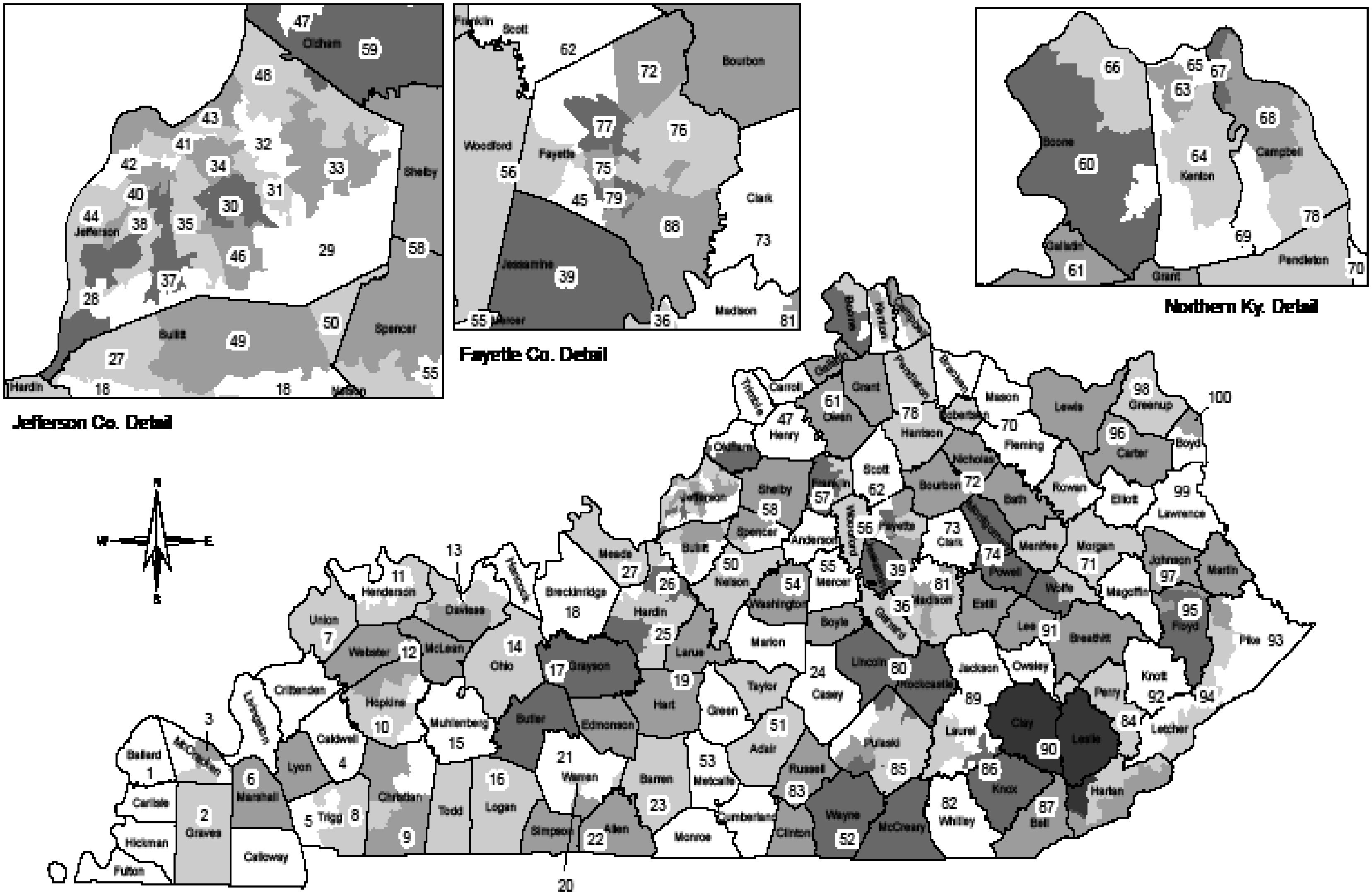


# 2002 Kentucky House Districts

House Plan (HH001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

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